

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF NEW MEXICO

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 vs. NO: CR-15-4268 JB

6 ANGEL DELEON, et al.,

7 Defendants.

8 VOLUME 1

9 Transcript of Jury Trial before The Honorable
10 James O. Browning, United States District Judge, Las
11 Cruces, Dona Ana County, New Mexico, commencing on
12 January 29, 2018.

13 For the Plaintiff: Ms. Maria Armijo, Mr. Randy
14 Castellano, Mr Matthew Beck

15 For the Trial 1 Defendants: Ms. Amy Jacks, Mr.
16 Richard Jewkes, Ms. Theresa Duncan, Mr. Marc Lowry,
17 Ms. Carey Bhalla, Mr. Bill Maynard, Mr. Ryan Villa,
18 Ms. Justine Fox-Young.

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1 THE COURT: All right. We'll go on the
2 record.

3 Good morning, everyone. I appreciate
4 everyone making themselves available to me this
5 morning.

6 All right. The Court will call for trial
7 the United States of America versus Angel DeLeon,
8 criminal matter number 15-4268 JB.

9 If counsel will enter their appearances for
10 the Government.

11 MS. ARMIJO: Good morning, Your Honor.
12 Maria Armijo, Randy Castellano, and Matthew Beck on
13 behalf of United States.

14 THE COURT: Ms. Armijo, Mr. Beck, and Mr.
15 Castellano, good morning to you.

16 I believe the order, Mr. Baca would go
17 first, so enter your appearances.

18 MS. DUNCAN: Good morning, Your Honor.
19 Theresa Duncan appearing on behalf of Mr. Baca. And
20 Mr. Lowry stepped out.

21 THE COURT: All right. There is Mr. Lowry.
22 Mr. Lowry, Ms. Duncan, Mr. Baca, good morning to you.

23 And I think Mr. Sanchez was second; is that
24 correct?

25 MR. JEWKES: Good morning, Your Honor.

1 Richard Jewkes and Amy Jacks representing Daniel
2 Sanchez. We're ready to proceed.

3 THE COURT: Mr. Jewkes, Ms. Jacks, and Mr.
4 Sanchez, good morning to you.

5 And I believe Mr. Herrera was going to go
6 third, if I'm correct?

7 MR. MAYNARD: Good morning, Your Honor.
8 Bill Maynard and Carey Bhalla for Mr. Herrera. And
9 we're ready to proceed.

10 THE COURT: Mr. Maynard, Ms. Bhalla, good
11 morning to you. Mr. Herrera, good morning to you.
12 Mr. Sanchez, good morning to you.

13 MS. BHALLA: I missed -- I think you said,
14 did you say we're going --

15 THE COURT: I thought you were going third;
16 is that correct?

17 MS. BHALLA: Oh, yes, Your Honor.

18 THE COURT: And for Defendant Rudy Perez.

19 MR. VILLA: Good morning. Ryan Villa and
20 Justine Fox-Young on behalf of Mr. Perez. And I have
21 with me at counsel table Edith Gordon.

22 THE COURT: Mr. Villa, Ms. Fox-Young, Mr.
23 Perez, good morning to you. And Ms. Gordon, good
24 morning to you.

25 Let me put a few things on the record.

1 We've had a lot of goings on over the weekend, some
2 developments, and so we need to make sure -- so we've
3 got a few things to confirm and put on the record.

4 Let me first talk about the shackles.
5 Yesterday afternoon Ms. Wild came in with the
6 marshals. She put the shackles on her feet, and then
7 we listened to make sure that there was no sound.
8 Ms. Wild requested more duct tape. So there has been
9 more duct tape put on the shackles yesterday. So I
10 think we're in good shape as far as there not being
11 any sound.

12 This morning Ms. Wild has asked each one of
13 the defendants to stand, because at some point this
14 morning, we're going to have you counsel introduce
15 your clients. And so when that occurs, they will
16 stand. And we'll make sure they will be standing, of
17 course, when the jury comes into the courtroom. And
18 as long as everybody doesn't do anything out of your
19 position, it looks like the jury will not see any of
20 the shackles.

21 We put some additional briefcases at the
22 back. Mr. Baca, you're probably the one that's
23 most -- you know, closest there. So just make sure
24 that you don't get out of your, sort of, line of
25 vision. I think you're cool. I came in yesterday

1 afternoon and looked and sat around. So I think
2 everybody is in good shape. So it's kind of up to
3 the men at this point just to make sure you stay
4 right there. So this is for your own good, to make
5 sure that the jury is not sitting there thinking
6 about things like shackles; they're just thinking
7 about the evidence and listening to the defenses and
8 the arguments of the parties. So everybody stay kind
9 of in their place and keep their feet under the table
10 when they stand.

11 We do have an overflow courtroom. I forget
12 the name of it. The Organ Courtroom, fourth floor.
13 So I think we've solved the overflow problem. So if
14 we have jurors, if we have family members, or we may
15 have press or we have just people wanting to watch
16 proceedings, we should have plenty of room. There's
17 two big signs as you come in the front door telling
18 them to go to the Organ Courtroom for overflow. But,
19 of course, I think we're going to have room here, as
20 well, and that's what it looks like. That's what
21 they will see. So they'll be able to hear everything
22 in the courtroom and they'll be able to see, at least
23 for voir dire, me, and we'll see if we need it after
24 that. I'm not sure we're going to need it after voir
25 dire. But we'll see, and if we need it, we'll use

1 it.

2 I can't think of anything on those scores.
3 Anything else?

4 There are three jurors that I think y'all
5 were about to reach an agreement on that Ms. Wild had
6 sent names that they were proposing. My
7 understanding is the defendants sent something to Ms.
8 Armijo, and we haven't heard from the Government.
9 Are y'all on board for excusing those three or --

10 MS. ARMIJO: I believe the defense has
11 agreed to only excusing Bates and Sanchez.

12 THE COURT: So Beatty and --

13 THE CLERK: No, it's Bates.

14 THE COURT: Bates and Sanchez. Is the
15 Government in agreement on those two?

16 MS. ARMIJO: Yes.

17 THE COURT: Okay. So we'll just excuse
18 those. If those are in the first batch, then I
19 reviewed them. But if they're in that second batch,
20 I began to run on fumes last night and this morning
21 as far as getting additional ones.

22 So we'll excuse Bates and Sanchez, if
23 that's all right with the defendants. Ms. Duncan?

24 MS. DUNCAN: It is, Your Honor.

25 THE COURT: All right. So those two will

1 be excused. What else, Ms. Wild?

2 THE CLERK: I don't have anything.

3 THE COURT: Let me talk to you a little bit
4 about the materials that were filed over the weekend.
5 I did look at the Government's motion that was filed
6 late on Saturday evening. And of course, my
7 understanding is the Government was telling the
8 defendants and Ms. Wild what the proposal was. When
9 it came in, I carefully considered that night and
10 overnight, into the morning, the Government's
11 proposal. I think I communicated that I was inclined
12 to grant the motion not to reconsider the two juries
13 on the first basis, which was that they're just
14 unnecessary; but on the second basis that they were
15 willing to Brutonize three groups of statements:
16 Baca's and Mr. Perez' and Mr. Herrera's statements,
17 the latter two being through Mr. Cordova, and through
18 Eric Duran.

19 And I inquired through Ms. Wild, was the
20 proposal that the Government had was that they --
21 even though they do not believe that these are Bruton
22 statements and the Court has concluded they're not
23 Bruton statements, that nonetheless, they would
24 Brutonize these statements. And by that I mean they
25 would comply with the rules of Bruton. In other

1 words, that they would redact according to those
2 rules and the redactions would not be shown. If, in
3 fact, they redact a lot and there will be gaps in the
4 pages, they'll have to renumber the pages. The jury
5 will not know that there are redactions.

6 And so that being the offer, to not have
7 those statements in there, and to comply with Bruton
8 even though we have concluded that -- the Court has
9 concluded it's not a Bruton situation, I felt that it
10 may not eliminate the number of limiting
11 instructions. I think we're still going to have at
12 times a fair number. But at least for some of the
13 most incriminating information against Mr. Baca, Mr.
14 Perez, and Mr. Sanchez, it will greatly reduce the
15 jury ever hearing them, because they'll not be
16 introduced against anybody.

17 So I concluded and I think Ms. Wild
18 informed everybody that I was inclined to grant the
19 Government's motion and require them a strict
20 compliance with Bruton. We're going in a little bit
21 blind, but I'll be fair to the defendants. They made
22 an agreement, they made representations, and they've
23 agreed to the terms. And so I'll do my best to go
24 back to the old days of being a Bruton judge and
25 making sure that the statements do not incriminate

1 anyone else, other than the person that they're being
2 offered against. And I'm giving limiting
3 instructions, but the incriminating -- you're
4 entitled to the limiting instructions, you'll still
5 get the limiting instructions. The incriminating
6 material will be out as to anybody else.

7 I also -- somebody pointed out in the
8 briefing that we didn't get to consider the motion to
9 continue on Friday. I was wondering if anybody would
10 bring it up. I did consider the request. I mean,
11 these ongoing calls -- we've all known that this is
12 just a difficult situation. A lot of men are
13 still -- both cooperators and those in the room, and
14 a lot of people who aren't in the room, continue to
15 make calls, and the Government is not going to
16 introduce any evidence from that, so it's not going
17 to be used in their case-in-chief. It's only going
18 to be material that y'all can mine, the defendants
19 can mine, for impeachment material.

20 But I don't know how else, given the
21 rolling nature of people just continuing to be in
22 jail and detention centers and making calls -- so I'm
23 inclined, as you probably inferred or deducted from
24 Friday's hearing, that that will be denied and I
25 understand why it needed to be filed.

1 There are some renewed motions today and
2 I've gotten through most of those, and still feel
3 comfortable about proceeding to trial. But we do
4 have a few minutes before the jury starts coming in.

5 It seems to me the marshals have done -- as
6 far as reports I've gotten around the building,
7 they've done an excellent job of having the marshals
8 and transport people in suits and ties. I saw a few
9 bolo ties, but I think that's fine with the marshals,
10 and so I'm not going to raise any issue with that.
11 If anybody else wants to raise an issue about bolo
12 ties, they can.

13 Let me ask Ms. Wild before I begin to turn
14 it over to y'all probably what the rules of
15 engagement are. I'll let say what you have to say,
16 need to say, or want to say until that jury is ready
17 to go. Then when the jury is ready to go, we're
18 going to bring them in here.

19 So Ms. Wild, can you think of anything
20 else? My list is so cryptic, I'm not sure I did a
21 good job. Let me make sure for voir dire I did get
22 the right order. It is Baca. Is Herrera going to be
23 second?

24 MS. BHALLA: Yes, Your Honor.

25 THE COURT: Then Mr. Sanchez will be third?

1 THE CLERK: No, Perez is third.

2 THE COURT: I wasn't even close, was I?
3 Okay. So Mr. Sanchez is going to go last. Is that
4 the thought?

5 MR. JEWKES: Yes.

6 THE COURT: So it will be Mr. Baca, Mr.
7 Perez, Mr. Sanchez. Anything else?

8 THE CLERK: Not that I can think of.

9 THE COURT: Let me start with the
10 Government. Do y'all need to raise anything this
11 morning before we bring the jury in, Mr. Beck?

12 MR. BECK: I think the only concerns we had
13 were the two motions to continue, and it sounds like
14 the Court is denying those, so I think we're ready to
15 proceed.

16 THE COURT: Anything you need to put on the
17 record as a result of those?

18 Let me say this on the motion to continue
19 that raised the Albuquerque Journal article. I guess
20 everybody got up on Sunday morning and felt like we
21 could probably have done without that, but it is what
22 it is.

23 One thing that I want to make sure as a
24 judge that I understand, I didn't think we left that
25 hearing with an agreement among the counsel as to a

1 gag order. The Court said it wasn't inclined to
2 impose one, but my memory of that hearing was
3 different than what was in some of the briefing, that
4 there was an agreement. My memory was we reached an
5 agreement, and then it broke down because my memory
6 is that Mr. Cooper and maybe Mr. Burke or Mr. Castle
7 said, "Well, we don't want to agree to that because
8 we want to work out some details," and they never got
9 worked out.

10 So if there is an enforceable gag
11 agreement, I'm not aware of that. What's your memory
12 on that, Mr. Beck?

13 MR. BECK: Your Honor, I think the United
14 States has operated, since the Christopher Garcia
15 drug trial back in May of last year, under the
16 understanding that we are not speaking to the press.
17 My memory is along the lines of yours. I think we
18 sort of had an agreement. It may not have come
19 together. But the United States just is not talking
20 to the media.

21 THE COURT: And do you want to make any
22 representations about Mr. Castellano did not talk to
23 the press about this case?

24 MR. BECK: This was the person with whom
25 Mr. Castellano was speaking Friday afternoon

1 referenced in the motion. They spoke for about 15
2 minutes. She provided Mr. Castellano her card. Her
3 name is Lenore Delgado. She's an investigator with
4 the Rothstein Donatelli law firm.

5 THE COURT: Okay. So I take from that that
6 Mr. Castellano didn't talk to the press.

7 MR. BECK: Mr. Castellano has not talked to
8 the press. Neither has Ms. Armijo and neither have
9 I.

10 THE COURT: All right. Anything else you
11 want to say as far as motions to continue?

12 MR. BECK: No, Your Honor.

13 THE COURT: Let's hear from the defendants.
14 Ms. Jacks, did you want to speak on this issue?

15 MS. JACKS: Sure. I want to speak on a
16 couple of issues.

17 THE COURT: You certainly may. We'll
18 listen until we've got a jury out there.

19 MS. JACKS: So let me just start first with
20 addressing what Mr. Beck said. We accept that
21 representation. I'm the one that prepared that
22 motion, and I didn't know who Mr. Castellano was
23 speaking with. And so I accept that representation.

24 With respect to there being an agreement, I
25 quoted directly from the Court transcript.

1 THE COURT: I agree. But if you keep
2 reading --

3 MS. JACKS: I may not have done that.

4 THE COURT: -- I think it fell apart. My
5 memory is -- and I could be corrected, Ms. Jacks, but
6 this is just my memory. I remember exactly what you
7 put in your brief, but I remember also it falling
8 apart a little bit later, because my memory was Mr.
9 Cooper and either Mr. Burke or Mr. Castle got up and
10 said, "Hold on. We're not sure we want to agree to
11 that. We'll get back with you." And everybody
12 agreed to work on it and come back, and we never came
13 back to it.

14 MS. JACKS: And that may very well be the
15 case. I was under tremendous time pressure and I
16 didn't read things that didn't seem unnecessary last
17 night.

18 I will say, it does seem like the parties
19 are operating under the agreement, whether or not it
20 really was or wasn't. I don't think anybody is,
21 according to what Mr. Beck has said, and I think the
22 defense agrees that nobody should be talking to the
23 press.

24 THE COURT: Well, if everybody wants to
25 agree to that this morning with this smaller group,

1 is the Government prepared to reach an agreement?

2 MR. BECK: Yes, Your Honor.

3 THE COURT: And are all the defense lawyers
4 ready to reach an agreement on that? Everybody --

5 MS. DUNCAN: Yes, Your Honor.

6 THE COURT: Not hearing any objection, then
7 the Court will enforce the agreement. I'm not going
8 to enter --

9 MR. BECK: Your Honor, I just want to make
10 one clarification. It will just be for this trial,
11 through this trial, through the end of this trial.

12 THE COURT: Yeah, just these lawyers here.

13 MR. BECK: I anticipate our office may want
14 to do a press release when the verdict comes down, or
15 may not.

16 THE COURT: It will go through verdict.
17 And then after verdict, everybody will be released
18 from their agreement. I'll enforce the agreement
19 during the trial. I'm not going to enter a
20 traditional gag order, but I will enforce the
21 agreement so that we don't infringe anybody's First
22 Amendment rights.

23 Ms. Jacks.

24 MS. JACKS: And I want to follow up with
25 sort of the second part of that media motion, and

1 that is that whether or not the Government is the
2 source or the tipster for the Albuquerque Journal
3 article, the Albuquerque Journal article was picked
4 up by papers across the state, and particularly the
5 information contained in the newspapers was repeated
6 on radio and on national -- on ABC, NBC, CBS last
7 night.

8 And I want to say that this is really a
9 worst-case scenario for the defendants because of the
10 nature of the information. The nature of the
11 information that was communicated in that article was
12 communications between the United States Marshal
13 Service and the Court about particularly
14 high-security concerns related to these particular
15 defendants that were named and pictured in the
16 article. And the article went on to discuss an
17 attachment that was sent only to the Court which
18 supposedly delineated --

19 THE COURT: Can I make the record on that?
20 I never got that and neither did Ms. Wild.

21 THE CLERK: The attachments?

22 THE COURT: The attachments. No, we never
23 saw it. That was one reason that on Friday, if
24 you'll recall, I had to spend a lot of time finding
25 out the criminal record of the individual defendants.

1 And particularly, if you'll recall, I was interested
2 because I had been told that three of the
3 gentlemen -- and I didn't know if it was the five
4 that were with us on Thursday or the four that were
5 with us on Friday -- had escape charges. But I never
6 saw those. And I agree with you that's what the
7 email says, but I never saw those, and to my
8 knowledge they weren't provided to the Court.

9 MS. JACKS: I accept that. And I think
10 that the problem for Mr. Sanchez, Mr. Baca, Mr.
11 Herrera, and Mr. Perez here is that the newspaper
12 reported it. The newspaper reported the content of
13 the supposed attachment which contained -- I want to
14 say it's the lengthy and violent criminal histories
15 of all the defendants who have been in prison for an
16 extremely long time.

17 And so I think what we have -- you know,
18 the Government was upset about a defense motion 39
19 days before trial that may or may not get media
20 attention. Here, we have an email from law
21 enforcement to the Court containing very sensitive
22 law enforcement information about the criminal
23 history of the defendants, about the history of
24 violence of the defendants, about the high-security
25 threat this situation poses within 24 hours of these

1 jurors coming into court. And I didn't watch
2 television last night, but I can report according to
3 my colleagues that this theme was picked up by TV
4 news last night, and they had people, you know,
5 talking to the news broadcasters with their
6 identities blocked out because if they were
7 identified, they would be killed by the SNM.

8 This is becoming -- this is a carnival-like
9 atmosphere that the jurors would have to be almost
10 super-human to not have seen some piece of it. And
11 it's extremely prejudicial, and it's absolutely no
12 fault of the defendants in this case.

13 THE COURT: Well, let me stop you there.
14 Because, remember, this all got started with, on the
15 eve of trial last week, Mr. Villa filing a motion to
16 remove the shackles. You know, we had reduced the
17 security to a pretty low level, but then the
18 defendants tried to make a public run at removing the
19 shackles, and that required, then, the Court to go to
20 the marshals and say -- and I'll tell you what I told
21 the U.S. Marshal. I said, "I'm not telling you what
22 to advise me, but I'll tell you, it would make my
23 life a whole lot easier if these men were not
24 shackled for this trial." I said, "I'm not telling
25 you what to say, but you give me your advice." I

1 said, "If that's going to be your advice, I need two
2 things. I need, one, you to put that in a memo so
3 the defendants can see what you're telling me. And
4 then secondly, I've got to have somebody in the
5 courtroom on Friday to stand here that can be
6 answering questions and to make the record."

7 So here's the difficulty we had. Once the
8 defendants chose to raise that issue publicly, if
9 Ms. Colleen Heild from the Journal had been here in
10 the courtroom on Friday, everything that she saw,
11 everything that she's writing from a memo she would
12 have heard in the courtroom, that we opened the
13 courtroom.

14 So we all just have to deal with the fact
15 it's the press. The fact that she could write her
16 article from Albuquerque without being in the
17 courtroom is interesting, but if she had been here on
18 Friday, everything would have been very open and even
19 probably more robust, given the fact that more
20 information came out on Friday. There wasn't
21 anything in the article that was not publicly
22 discussed on Friday.

23 MS. JACKS: I have two comments to that. I
24 think, number one, Mr. Villa and every other defense
25 counsel has an obligation to represent their clients

1 competently and effectively. And I think given the
2 degree of prejudice that the shackling poses to the
3 defendants, it would be -- it would have been
4 derelict of Mr. Villa or other defense counsel not to
5 bring that up. And I don't think that Mr. Villa or
6 any other defense counsel could have anticipated that
7 the U.S. Marshals would write an extremely
8 inflammatory email that would then be filed publicly.
9 And I don't think Mr. Villa or any other defense
10 counsel could have anticipated that there would be a
11 secret attachment was allegedly sent to the Court
12 outlining the defendants' record of violence and
13 lengthy incarceration that would somehow be leaked to
14 the press, that never made it to the Court but was
15 leaked to the press, and then reported in the papers
16 across New Mexico --

17 THE COURT: I don't think there is any
18 basis --

19 MS. JACKS: -- 24 hours before the trial.

20 THE COURT: I don't think there is any
21 basis for saying that the NCIC reports that never
22 made it to the Court -- or not to the file or
23 anything is in the press's hands.

24 MS. JACKS: Well, I'm not saying it is. I
25 mean the press --

1 THE COURT: You're saying it was leaked.
2 And I don't have any -- I don't see any -- if you and
3 I are looking at the same stuff, the newspaper
4 article, I don't know -- I just don't think it
5 exists. It never got attached. I think it's
6 something still in the marshals. And it's certainly
7 not because of the Court. So if there is any
8 insinuation that the Court leaked something to the
9 press, I never had it.

10 MS. JACKS: I'm not insinuating that, and I
11 can't believe you would think I would.

12 THE COURT: Well, who are you saying is
13 leaking it?

14 MS. JACKS: I have no idea. But I don't
15 think I have to know to know that there was a leak,
16 because the Albuquerque Journal article --

17 THE COURT: I don't read the article that
18 way. You can call Ms. Heild. But I don't think she
19 has the NCIC reports of your clients.

20 MS. JACKS: May I just quote the portion of
21 the article that I --

22 THE COURT: It's right in front of me and
23 I've read it three or four times. But I just don't
24 think you can get that, Ms. Jacks, from that
25 statement. They don't have any more than you have or

1 I have.

2 MS. JACKS: I don't necessarily think they
3 have it. They have information that it existed and
4 they reported on what it contained.

5 THE COURT: And that was even more robust
6 in court on Friday, because since I didn't have the
7 attachments, I asked Ms. Wild, and she said we never
8 got them. So I had to go through, and if you recall,
9 say, "Tell me about these men's criminal histories.
10 Do they have escape charges on them and things like
11 that?"

12 So I don't think there has been a leak. I
13 just don't think anybody other than the marshals got
14 that information. It was put in the memo but it
15 wasn't given to the Court.

16 MS. JACKS: Here's the sentence from the
17 Albuquerque Journal article, and it's the second
18 sentence underneath the heading entitled "Tension
19 building." "The Marshal Service included an
20 attachment for the judge, not made public, that
21 reportedly shows, quote, each defendant's criminal
22 history, all of which is very lengthy and violent,
23 especially given the number of years many of the
24 defendants have served in prison."

25 That's the reference the article makes to

1 the nonpublic information that was supposedly
2 intended for the Court.

3 THE COURT: And just again, for the record,
4 that is not accurate because I did not get that
5 information.

6 MS. JACKS: And I accept that. I think
7 whether it's accurate or not, this information has
8 poisoned this entire jury pool less than 24 hours
9 from the start of this trial.

10 THE COURT: If Ms. Heild had been here in
11 the courtroom, she would have gotten more information
12 about the men's criminal history, because of the
13 motion to remove shackles, than she would have by
14 reading that memo, because it would have been more
15 robust. Because if my memory is correct, it was
16 either Mr. Castellano or the deputy marshal that
17 stood at the podium and went in detail through the
18 defendants' criminal history.

19 MS. JACKS: I guess we'll have to be more
20 careful in the future to seal those types of
21 proceedings. But I hear what the Court is saying, I
22 disagree with the Court, and I'm ready to go to
23 another topic.

24 THE COURT: All right, Ms. Jacks.

25 MS. JACKS: The next thing I want to

1 address is this suggestion by the Government to --
2 let me go back a second, because I want to do
3 something easy. It occurred to us last night that
4 there were, in the motion in the James hearing and in
5 the discussions about whether statements were
6 testimonial or nontestimonial -- there were, I think,
7 two statements of Rudy Perez to law enforcement. I'm
8 going off memory right now, but I think one was to
9 Deputy Mulheron about the walker.

10 THE COURT: And I've already said that's
11 testimonial.

12 MS. JACKS: And the second was maybe closer
13 in time to the actual murder to another member of law
14 enforcement, maybe somewhere --

15 THE COURT: I recall one. I don't recall
16 two. If you've got two, we'll take a look at it. I
17 don't know if our chart got two testimonials. I only
18 recall one.

19 MS. JACKS: Do you recall the other one?
20 Agent Palomares, the New Mexico State Police officer
21 that was investigating the offense.

22 THE COURT: I might have to be more briefed
23 on it. But it sounds like that might be testimonial.

24 MS. JACKS: Okay. It just occurred to us
25 that we didn't have a ruling from the Court on that

1 and maybe we do --

2 THE COURT: I think I only recall -- what I
3 learned through the James hearings was only the
4 Mulheron statement. I didn't know about the other.
5 I mean, there's going to be a lot of evidence in this
6 case that you're not going to get pretrial rulings
7 because I only have a snapshot of the evidence
8 through largely the James hearing and then the
9 motions to suppress.

10 MS. JACKS: That's my next level of
11 discussion. But with respect to the fact that the
12 Court's ruling says testimonial, that means that the
13 statements are inadmissible absent the opportunity to
14 confront and cross-examine.

15 THE COURT: Those would be Bruton problems
16 because if they're testimonial, they can't be used
17 against any other people. And unless they can be
18 Brutonized in some way, they will not be admitted at
19 all.

20 MS. JACKS: So next I want to go to exactly
21 what we just started dealing with. The Government's
22 offered to redact statements deleting references to
23 nondeclarant defendants, is what I'm understanding.
24 And I guess I have a couple of comments. The
25 Government in their motion for reconsideration I

1 think dealt with three statements of Mr. Perez to
2 Billy Cordova.

3 THE COURT: Correct.

4 MS. JACKS: That is just the tip of the
5 iceberg.

6 THE COURT: I think we all agree with that.
7 I think the Government would readily agree that those
8 are strictly examples; that was the way they were
9 presented. I carefully reviewed multiple times the
10 examples. I thought they were fair. That doesn't
11 mean the Government gets to decide what's in and out,
12 but it seems to me that when I read two or three
13 times the examples, it seemed to me that it was
14 offered in a good spirit, good faith that they were
15 going to be generous -- those are my words -- in not
16 having incriminating information, and they fully
17 understand that I make the last call. And they also
18 understand that their proposals may not be the ones
19 that I live with and you'll get a chance to argue
20 with, and say there should be more or they're not
21 redacted enough, or, you know, the redactions show
22 redactions; all those Bruton problems that we did
23 when we were younger people, they understand that
24 I'll be the final judge, and so they're somewhat at
25 risk because given the adversarial process, it's

1 likely more things are going to come out than less
2 things.

3 MS. JACKS: Well, I have a comment. I
4 don't doubt that the Government attempted to do that
5 in good faith, and I certainly appreciate Mr. Beck
6 doing that, although I really think it's more than a
7 day late and more than a dollar short. I mean, here
8 we are the day before trial starting, and the
9 Government is starting to redact three of hundreds of
10 statements that they want to introduce at trial. And
11 I think it's completely unfair to the trial
12 defendants to be ambushed by this type of thing
13 without having any opportunity to see what the
14 redactions are ahead of having to give their opening
15 statements, ahead of having to even select a jury.

16 We have to share challenges, peremptory
17 challenges, and I think at this point we've got
18 defendants with potentially conflicting defenses on
19 this stuff, and we don't even know what the evidence
20 is going to be, because the Government just redacted
21 or proposed to redact three statements last night.

22 But the other thing is: I think the
23 Government's redactions, while the Court may call
24 them generous, I think they're inadequate. And if I
25 can try to state it in the easiest way possible, in

1 my reading of the redaction, what the Government
2 still proposes to introduce is statements of Rudy
3 Perez to Billy Cordova along the lines that Rudy
4 Perez provided his walker or a piece from his walker
5 to be used to manufacture weapons to kill Molina.

6 And that statement of Rudy Perez is
7 inadmissible against anybody in this courtroom but
8 Rudy Perez. It's inadmissible as to Mr. Sanchez.
9 And the effect of that statement, if it's believed,
10 is going to be to corroborate the informant
11 testimony, and the Government is using the informant
12 testimony against everyone.

13 So the redactions still provide evidence
14 that the jury is going to use or be unable to put out
15 of their mind that's going to, if believed,
16 corroborate the Government's informants, be used to
17 assess their credibility, and be argued is evidence
18 that convicts Mr. Sanchez. And there is a Court of
19 Appeals case that discusses this issue. It's from
20 the Court of Appeals of the District of Columbia.
21 It's United States v. Sampol. It was actually quoted
22 or used in Daniel Sanchez's motion to sever. But
23 that's at 636 F.2d 621, pages 639 and 640. And that
24 case does and has been cited for the proposition that
25 a defendant is prejudiced where inadmissible evidence

1 corroborates Government cooperators. And that's
2 exactly the type of situation that -- I mean, Mr.
3 Beck tried to redact it. He may not be aware of that
4 case or that idea, but that's where the Government is
5 headed, and I think it's a recipe for disaster.

6 The other thing is really, you know, the
7 Court has asked the defendants to work together to
8 try to limit the work for the Court, to try to, you
9 know, do things jointly as much as possible. And at
10 this point, that's almost impossible, because we
11 don't know what statements and what sorts of
12 redactions -- we don't know answers to those issues.
13 And as a trial lawyer -- and the Court has been a
14 trial lawyer. As a trial lawyer, you know, one of
15 the things you shouldn't -- you can't do is shoot
16 from the hip or you're going to get shot.

17 And I think that what the Government is
18 proposing is let's pick a jury, let's get started
19 with trial, and we'll just whip these things out as
20 things go. And that's completely unfair to the
21 defendants and I think it denies them due process of
22 law.

23 And I think the other issue -- and this has
24 been referenced in pleadings -- is that there are at
25 least -- there's at least one and perhaps two

1 defendants that are going to try to, I think, claim
2 that there was undue pressure put on them by Mr.
3 Sanchez to participate in a conspiracy to commit
4 murder and murder. I don't think it's a defense to
5 murder and I myself disagree with the defense, but it
6 may be presented to some extent. And to the extent
7 that the redactions take out Mr. Sanchez or take out
8 information that those defendants want to use to try
9 show that somehow they were threatened, what I
10 foresee is that these lawyers are going to be up here
11 telling the Court, "Hey, you know what, I want to get
12 into those redacted portions because this is my
13 trial, too, and this is part of my defense and I
14 intend to cross-examine on it."

15 And because the Government hasn't provided
16 us with the universe of statements that it's
17 intending to redact, the type of redactions, there is
18 no way right now for the defendants to resolve that
19 issue among themselves.

20 So I think we've been -- you know, we've
21 been dealt an impossible task. We spent all day
22 Saturday rearranging our plan for jury selection
23 based on what the Court had announced on Friday, only
24 to wake up Sunday morning and find out, based on the
25 Court's indicated ruling, that that was time that was

1 completely wasted. And it's incredibly frustrating,
2 especially when we've been here almost -- well, we
3 have been here every week since Thanksgiving and the
4 defendants have spent an inordinate amount of time
5 researching and briefing these issues to try to help
6 the Court reach a decision. And I think the Court,
7 by entertaining this motion to reconsider -- I mean,
8 by just doing this all at the last minute as the
9 Government has requested is rewarding the Government
10 for doing nothing.

11 I think some of my other defense counsel
12 may have something to say on this.

13 THE COURT: All right. Let me make a
14 couple of comments, though, as part of my ruling. I
15 do think the defendants' position has gotten better
16 since I raised, pretty much on my own, for the last
17 month the real evidentiary problems starting with Mr.
18 Cordova's testimony on the 19th was raising. And so
19 I think the Government -- the defendants' position
20 has gotten better because there is certain evidence
21 that is incriminating that will not be introduced in
22 this trial in any way.

23 And the Government runs a real risk. I
24 mean, they are ready to go and they want to go and
25 they want to get this trial going, and they don't

1 want it severed. Those things are all exactly true,
2 but they're also running the real risk that I may
3 agree with you, Ms. Jacks, or one of the other
4 defense counsel that for some reason some statement
5 should come out. And once we start this trial and
6 once we have an agreement that I'm going to be the
7 final arbiter, they run a real risk of losing
8 valuable information.

9 So I think the defendants' position has
10 improved over the weekend. I think the Government is
11 running a real risk that they could lose more
12 information and evidence as they go to trial because
13 of the agreement that they made.

14 So I know it's fluid. We're all
15 litigators, trial judges, and so it's fluid. But if
16 I had to assess, the Government picked up a lot of
17 risk by what they did on Saturday, and the
18 defendants' position got better because a lot of
19 evidence that was going to come in is not going to
20 even come in, much less with limiting instructions.
21 It's just not going to come in.

22 MS. JACKS: I hear the Court.

23 MR. BECK: Your Honor.

24 THE COURT: Let me make sure that the
25 Government --

1 MR. BECK: May I interrupt real quickly? I
2 just looked back, and I think there may be a
3 potential Government witness in the room, and I don't
4 know that we've talked about it, in fact, but I want
5 to make sure that we make sure --

6 THE COURT: Who is the witness that may be
7 in the room?

8 MR. BECK: I think Mr. Fierro is in the
9 back. I don't know how long ago he came in.

10 THE COURT: You'll need to leave the
11 courtroom then.

12 MS. JACKS: I'm not clear why the
13 Government didn't ask him to leave before we got
14 started, given that we already had this motion
15 litigated.

16 MR. BECK: I'm sure other folks can speak
17 to this, but I did not see -- I've been checking as
18 I've been looking back at our staff back there,
19 helping with the redactions, and I had not seen him
20 sitting behind them until I just looked back this
21 moment.

22 THE COURT: One thing I might mention, too,
23 I saw over the weekend in the article that the
24 defense may call Darren White. I may have made
25 disclosures on Darren earlier in the case, but I know

1 Darren White. He's -- I've known him since he was --
2 maybe even before Corrections Secretary, when he ran
3 for attorney general. My firm and I may have given
4 money to him. But I did see that. The last time I
5 saw Mr. White was about a year and a half ago. I
6 invited him to speak on a panel for the Inn of the
7 Courts. I was having a panel on Black Lives Matter,
8 and I wanted to have somebody from the police talking
9 about how they reacted to African-Americans, and I
10 had several African-American police officers and U.S.
11 Attorneys and things talking about that. But that's
12 the last time in connection with that Inn of the
13 Court that I had any connection with him.

14 To my knowledge, he's never been in my home
15 and I haven't been in his. He is somebody I know on
16 that list. There might have been one or two others
17 that I recognized, but that's the only one I can
18 think of off the top of my head. But I think I can
19 be fair and impartial, but if anybody has questions
20 or issues on that, don't hesitate to ask me.

21 Did you want to let somebody else talk or
22 do you have more things you want to respond to?

23 MS. JACKS: I want to let other people
24 talk. I want to say just one thing in the response
25 to the Court that the Government runs a risk, because

1 I've done a lot of jury trials, and yeah, the
2 Government runs a risk. But the Government also
3 knows that it's very unlikely that if it should take
4 a risk and lose that the Court will declare the trial
5 over and send the jury packing. What the Government
6 knows --

7 THE COURT: Isn't it more likely what's
8 going to happen is the redactions will be deeper than
9 what the Government is thinking they may be?

10 MS. JACKS: That's assuming we know about
11 the statement before the Government puts the witness
12 on the stand. And what I envision is some pretty --
13 I'm concerned about the Government putting somebody
14 up there and having things inadvertently come out
15 that either the Government doesn't know or the
16 Government -- the Government certainly hasn't
17 disclosed that whole universe of statements to us.
18 It's not easy for us to know prior to each witness
19 exactly what danger that witness poses.

20 But what our concern is -- and it only
21 takes one of these to severely prejudice the
22 defendant -- is that the Government is going to stick
23 somebody up on that witness stand, and a bunch of
24 stuff is going to come out of their mouth that's
25 inadmissible, and we're going to be sitting here

1 telling the Court a limiting instruction is not
2 enough, and the Court is going to be reluctant to
3 send the jury home. And the Government is well aware
4 of that, because that's par for the course when
5 you're the Government.

6 THE COURT: That's fair enough, but I
7 assume, Mr. Beck, that part of the Government's offer
8 is -- we've been focusing on these transcripts, but
9 part of your offer is that you're going to sanitize
10 your witnesses, too. You're going to tell them --
11 and what I would propose is you lead them through
12 those critical portions so that your witnesses don't,
13 and you don't, elicit incriminating statements
14 against anyone other than that person. I mean,
15 you're going to Brutonize your witnesses, too.

16 MR. BECK: Right, Your Honor. And I think
17 to a certain extent -- I mean, we are going to -- we
18 have been and we will continue talking to our
19 cooperators about the pretrial rulings. We will
20 sanitize and help them with their statements. I
21 think Ms. Jacks is right, that we do not know the
22 universe of statements out there. I think we are
23 very, very close. And so I am confident that we are
24 doing the best we can to ensure that we are abiding
25 by our agreement and the Court's rulings.

1 THE COURT: All right. Thank you, Mr.
2 Beck.

3 Let me ask Ms. Wild where we are.

4 MS. WILD: They're working on item 22.

5 THE COURT: Still working on the jury. So
6 you get to speak, Ms. Bhalla.

7 MS. BHALLA: Thank you, Your Honor.

8 THE COURT: Good morning, Ms. Bhalla.

9 MS. BHALLA: Good morning, Your Honor.

10 Your Honor, after we received the
11 Government's proposal about redactions, I went back
12 through the transcripts regarding Mr. Herrera, and
13 there are a number of instances where Mr. Herrera
14 indicates that he was not, in fact, the leader and
15 was not, in fact, responsible for the decisions and
16 the issue in this case, and others in this courtroom,
17 in fact, were. And if the Government is going to be
18 redacting transcripts, they're going to be
19 essentially redacting exculpatory information that
20 Mr. Herrera has a right to explore on
21 cross-examination.

22 THE COURT: That may be true. But as far
23 as the Government putting on their case, it doesn't
24 create any problems if they want to put on less
25 information. They don't ever have to put on

1 exculpatory information. Now, we may all have to
2 think about if y'all are going to cross-examine. I
3 haven't thought through that, and there may be some
4 law on that that allows that. But if the Government
5 is not putting it on, it solves some problems and
6 they don't have an obligation to put on your
7 exculpatory information.

8 MS. BHALLA: That's correct, Your Honor,
9 but I also don't think that there is going to be any
10 way to prohibit me from going there.

11 THE COURT: There may not. I guess you may
12 have to -- you and Mr. Perez and counsel may have to
13 sit and do a little research for me about that, where
14 defendants are cross-examining a witness and trying
15 to elicit different statements.

16 MS. BHALLA: And I did do that, Your Honor,
17 and I can say to the Court that I think that given
18 the expected testimony of the informants, we will, in
19 fact, be able to go there. And so with that in mind,
20 I just wanted to warn the Court that's going to be an
21 issue going forward, number one.

22 And number two, I think if we're going to
23 proceed this way, we need at least 72 hours to review
24 the transcripts ahead of time. We really don't want
25 to be getting them the morning of. So I'm asking the

1 Court -- I think everybody is asking the Court to
2 impose some sort of deadline on production of the
3 redacted transcripts with each witness, so that we
4 have time to raise these issues and we have time to
5 see what we need to bring to the Court's attention,
6 Your Honor.

7 THE COURT: You said you were very close,
8 Mr. Beck. How close are you?

9 MR. BECK: 72 hours isn't a problem. That
10 works just fine for us, and they may get some in
11 advance of 72 hours of the witnesses.

12 THE COURT: And I would encourage -- I
13 don't know how you feel about this, Mr. Beck, but I
14 would encourage the defendants that they be looking
15 at these transcripts, too -- we all have them --
16 looking at them and proposing redactions, as well.

17 MS. BHALLA: We have been, Your Honor, and
18 we will continue to do so.

19 The other issue I want to bring up -- I
20 know other people want to talk, but just so that we
21 get it out, given the inflammatory nature of the
22 newspaper article and the things that came out, I
23 think that it might be prudent and I'm asking the
24 Court to possibly request, when the jurors get in, if
25 anyone has seen media coverage of the case in the

1 last month by a show of hands. And if those jurors
2 have, it might be prudent to speak to them
3 individually so we don't risk tainting the whole
4 pool, Your Honor.

5 THE COURT: I was planning on doing that.

6 MS. BHALLA: Okay. Thank you.

7 MS. JACKS: I'm sorry. When we had the
8 72-hour discussion last night, what I thought the
9 defendants were asking for was having the statements
10 for 72 hours prior to the start of trial. And I
11 don't think that's what Mr. Beck agreed to, and I
12 don't think Ms. Bhalla was clear that that's what we
13 were asking for.

14 THE COURT: You're not going to get them 72
15 hours before trial. You'll get them 72 hours from
16 now, but not 72 hours before trial.

17 MS. JACKS: That puts us potentially in the
18 position of cross-examining informants without any
19 opportunity to review the redacted statements and
20 that is grossly unfair.

21 THE COURT: I'd urge Mr. Beck to move to
22 the top of the list anybody he's going to call
23 earlier rather than later.

24 MR. BECK: I mean, we will not play
25 recordings without them having -- everyone seeing the

1 transcripts and having time to digest them. I don't
2 know that we -- I don't know how quickly we can move
3 forward with the actual recordings, the recorded
4 statements in terms of audio, putting those together,
5 but we will disclose the transcripts, at least, when
6 they are redacted and ready, so that everyone has the
7 ability to look at those; and then as the audio is
8 available, we'll try to get that in everyone's hands
9 as we have the opportunity.

10 THE COURT: And I'm assuming from that,
11 because you don't have these audios ready, they're
12 not going to be the first things you introduce at
13 trial.

14 MR. BECK: That's correct, Your Honor.
15 Everyone will have notice of at least the transcripts
16 and very hopefully -- I mean, I don't see that there
17 is a possibility that the audio would run afoul of
18 our Bruton-type redactions. We will -- that will not
19 happen. So you'll have the transcripts. If for some
20 reason we can't get you the audio, we know the
21 Court's ruling, we know what agreement we've made, we
22 know what the Court is expecting and the defense is
23 expecting in terms of a Bruton-type redaction even on
24 audio recordings, and we will not run afoul of that,
25 even if that means we have to break up some portions

1 of the audio and present them in clips instead of
2 running them in the time that we may have originally
3 thought.

4 THE COURT: And what I'm deducing from this
5 is that even though I'm not delaying the trial for
6 this, they're not going to see -- I don't anticipate
7 this -- if we were to have evidence this afternoon,
8 you're not going to have these things this afternoon
9 or tomorrow or probably Thursday or Friday.

10 MR. BECK: That's right, yes.

11 THE COURT: Because they're not ready.

12 MR. BECK: They will not be put in the
13 position of cross-examining someone whom they don't
14 have the already-redacted portions of their
15 statements, and hopefully that's fine.

16 THE COURT: Okay.

17 MS. JACKS: I mean, I still don't hear any
18 sort of reasonable time before. I mean, what is to
19 prevent the Government from walking into court,
20 slapping some statements on the table, and saying,
21 "In an hour we're calling this person"? And that's
22 the exact situation that prejudices the defendants'
23 right to a fair trial.

24 THE COURT: Well, you do have a time limit
25 of 72 hours from now for all the statements to be

1 redacted. That is being imposed. Correct, Mr. Beck?

2 MR. BECK: Yes, Your Honor. As I said, the
3 transcripts.

4 THE COURT: The transcripts.

5 MR. BECK: Hopefully the audio -- probably
6 not the audio in 72 hours, but for sure the
7 transcripts you will get in 72 hours.

8 THE COURT: So that is being imposed.

9 MS. BHALLA: Your Honor, can I just ask a
10 question? Was it -- I think what I was asking was
11 that we get it -- okay, never mind.

12 MR. BECK: I think Ms. Bhalla and I were
13 understanding 72 hours before the witnesses. I think
14 the Court is right, 72 hours from now would be more
15 reasonable for everyone. So I think that's a better
16 resolution: 72 hours from now the transcripts will
17 be in the defendants' hands.

18 THE COURT: Go ahead, Mr. Villa. I may cut
19 you off, because it looks like Jury Services may be
20 here and ready to go.

21 MR. VILLA: I want to make one point which
22 I think is: We get these transcripts, then we
23 suggest additional redaction. If there is not an
24 agreement, we're going to need a ruling from the
25 Court. Preparing the transcript will be quick once

1 we get a ruling from the Court. But then they have
2 to prepare the audio.

3 THE COURT: Why don't you do this, Mr.
4 Beck, so I can be looking at these at the same time
5 to try to educate myself. Give me the transcripts,
6 too.

7 MR. BECK: Will do, Your Honor.

8 THE COURT: I'll try to be the best
9 prepared I can, because I understand what you're
10 saying.

11 MR. VILLA: And I've identified in the
12 exhibits Mr. Beck attached numerous additional
13 redactions, if there is not an agreement.

14 THE COURT: Let's see what we've got on the
15 jury, then I may hear from you, Mr. Villa.

16 MR. VILLA: That's all I have, Judge.

17 THE COURT: Let me tell you what you've
18 got. You don't have a seating chart and you don't
19 have a challenge sheet yet. But it does give you the
20 order. So if you want to start getting your
21 paralegals or however you do your jury selection.

22 THE CLERK: The challenge sheet and the
23 seating chart are stapled together. We're just not
24 used to this in Albuquerque.

25 THE COURT: You do have everything. If you

1 go to the back, the very back has your challenge
2 sheet, which I think is normal. That looks normal.
3 And then right behind it is somewhat small print
4 showing you the seating chart. Can you staple these
5 together? Are you going to blow them up?

6 THE CLERK: I'm about to blow them up.

7 THE COURT: So you see what you've got?
8 The next three pages, working from the back, it's got
9 your challenge sheet, and then you've got your
10 seating chart. And then you just got a list of the
11 people in order. I never make any use of that. If
12 you can make use of it, fine. But I think the big
13 thing is going to be the challenge sheet. Then the
14 seating chart.

15 MS. BHALLA: Your Honor, our client needs
16 to use the restroom.

17 THE COURT: Why don't we do this. Why
18 don't we -- do you want to take a break? Why don't
19 we go ahead and take a break. Everybody use the
20 restroom. Because when we come back in, are the
21 jurors going to be ready to line up?

22 THE CLERK: Yes.

23 THE COURT: So when we come back in, the
24 jury is going to be lined up. They're not going to
25 be coming in. We'll get all the men positioned and

1 everybody in here. Everybody use the restroom. If
2 you want to use the jury restroom, they're already
3 out there. So kind of keep it to 15 minutes. I'm
4 going to get Ms. Bean to rest, and then we'll
5 probably go an hour and a half at the beginning to
6 get the jury selection.

7 All right. We'll be in recess for about 15
8 minutes.

9 (The Court stood in recess.)

10 THE COURT: All right. Let's go on the
11 record. We may have some pauses here but I can get a
12 couple of things done.

13 Juror number 15, Joseph Mullings, there is
14 a progress note from his VA Health Care System. I'm
15 going to hand this to Ms. Standridge and ask her to
16 put it out on the bench there if you want to look at
17 it. It's from his -- why don't you put it right here
18 on the bench. Is there something right there? So if
19 counsel want to look at that from his doctor.

20 What Jury Services did was, they didn't get
21 all the excusals. That's unfortunate, because it's
22 going to make it harder for us to do what we've got
23 to do here. But they didn't get filed with the
24 excusals. So as a result, we're going to have to
25 have some open seats. I don't like that, but that's

1 just what we'll have to do. We'll have to roll with
2 it. So we'll tell you that, and we'll seat them, so
3 there will be a blank there. But that means we're
4 going to bring in an additional five. So when you
5 see the numbers, it's actually going to be 65. There
6 will only be 60 people in the courtroom, but we'll
7 have to roll with it and have blank seats. So bear
8 with us as we get those additional jurors up here and
9 note that on the record.

10 I know we're all scrambling, but we'll be
11 okay, because I'm going to talk to the jurors for a
12 while. Juror number 45 on your list, Cruz Chavira,
13 was released because he's only Spanish-speaking. So
14 he will not be on your list.

15 (A discussion was held off the record.)

16 THE COURT: Okay. I understand from Ms.
17 Duncan that everybody has agreed to release Mr.
18 Mullings, Juror No. 15, based on his note.

19 Is that agreed to by the Government?

20 MS. ARMIJO: Yes, Your Honor.

21 THE COURT: All the defendants on board?
22 Not hearing anybody say otherwise, not hearing any,
23 Juror No. 15, Joseph Mullings, will be excused, based
24 on his note.

25 (A discussion was held off the record.)

1 THE COURT: All right. You already have
2 two additional names. We've struck six. And there's
3 already two additional, 61 and 62, on your chart.
4 Three additional, 63, 64, and 65 will be Bridget
5 Murphy, Brittany Courtier, and juror number 65 will
6 be Rowen Baya, B-A-Y-A, juror 65. So that will be
7 the last one in the courtroom.

8 THE CLERK: And 66 is coming up.

9 MS. ARMIJO: Your Honor, I'm sorry, can you
10 start over, Judge?

11 THE COURT: All right. There's juror 63.
12 You have two, we've struck six.

13 MR. VILLA: What are they?

14 THE COURT: All right. I'm going to start
15 over. We've struck six, so I need to add six. There
16 are two on your chart already, so juror number 63
17 will be Bridget Murphy. That will be 63. Brittany
18 Courtier, juror 64. Rowen Baya, B-A-Y-A, will be
19 juror 65. And then we're going to have to bring up
20 one more to get us our 60. Ms. Wild, where will they
21 be sitting?

22 THE CLERK: Continuing in numerical order.

23 THE COURT: There is not room for all of
24 them.

25 CLERK: So they'll go in the back row on

1 this side.

2 THE COURT: So we'll have 63 go over here
3 on the second row outside of the well. And then on
4 the third row outside of the well on this side will
5 be 64 and 65 and 66.

6 Did you ask, Ms. Jacks, for me to confirm
7 who had been struck?

8 MS. JACKS: I would like that, yes, Your
9 Honor.

10 THE COURT: Let me go, then. Juror number
11 15, Joseph Mullings. Juror number 17, Carlton W.
12 Hefner. Juror number 19, Carol M. Holt. Juror
13 number 43, Jan Paige Dickerson. Juror number 45,
14 Cruz Chavira. Juror number 47, Roger A. Bates.

15 MS. JACKS: Thank you.

16 THE COURT: You're welcome.

17 MR. VILLA: Your Honor, will 66 be on --

18 THE COURT: It will be on -- the first row
19 will be in the well, so it will be three rows back,
20 and it will be starting with -- we'll start with 64,
21 65, then 66, moving right to left. Juror number 66
22 will be the last person we bring in the room, Bridget
23 Bush, B-U-S-H.

24 Anything else we need to discuss before we
25 bring the jury in?

1 All right. All rise.

2 (The venire panel entered the courtroom.)

3 THE COURT: All right. Everybody be
4 seated.

5 Good morning, ladies and gentlemen. I
6 appreciate everything you've done for us this
7 morning. I know some of you have come from some
8 great distances. I reviewed many, many of the
9 questionnaires, and we'll be talking about some
10 questions off those this morning. But as I went
11 through them, I realized many of you came from all
12 across the state. Many of you came in last night and
13 came in this morning, and I appreciate what you've
14 done.

15 As you will see this morning as we go
16 through things, if you didn't do what you did
17 yesterday, filling out these questionnaires and those
18 sort of things and doing what you did this morning,
19 it would be impossible for us to do what we do in
20 Federal Court, really any court in the country, but
21 particularly here in Federal Court. That's where you
22 came to, many of you from across the state, so I want
23 to thank you very much.

24 Let me introduce myself, and then I'm going
25 to introduce some other people. We'll do it

1 progressively as we go through the morning, so that
2 you know who you're talking to and who is asking you
3 questions, and things like that, and that you feel as
4 comfortable as you can.

5 I am Judge Jim Browning. There are seven
6 district judges in the District of New Mexico, and we
7 have a senior judge, as well, up in Albuquerque. I
8 live in Albuquerque, so I also drove in yesterday
9 afternoon. So I live up in the Northeast Heights and
10 work in the Federal Courthouse at 333 Lomas
11 Boulevard, if y'all know where that is. That's where
12 I mostly do my work, in the courtroom on the fourth
13 floor, and my chambers are on the sixth floor.

14 Generally I say at this point that following the
15 trial, I will invite the jurors that are actually
16 selected to my chambers so I can shake your hands and
17 personally thank you, but I won't be able to do that
18 here. But we'll figure out a place to do it for
19 those people that are selected for the trial, so I
20 can personally thank you for your service.

21 I probably won't be able to do that for the
22 people that aren't selected today, but I'm going to
23 thank you many times today for what you have already
24 done for us and what you're about to do for us.

25 I do come down here a fair amount. In the

1 older days, before we had two district judges down
2 here that lived down here, I came down here a lot.
3 So I spent a lot of time particularly in the
4 courthouse next door, but in this building as well.
5 And so I have to go here and Roswell. I don't go to
6 Santa Fe much. We have a federal courthouse in Santa
7 Fe. There are two judges up there, there's three
8 active in Albuquerque, one senior, then two down
9 here, so that makes up your seven.

10 So I appreciate it, and for those of you
11 who are on the road, I'm with you. So I'm going to
12 be staying down here throughout the trial.

13 Ms. K'Aun Wild is one of the court
14 managers, and for 27 years she and I worked together,
15 when I was in private practice and then 14 years as a
16 judge. But because she's so good, they promoted her
17 recently. So we were in the middle of this, and she
18 has come down, so she's going to help me with jury
19 selection today, and we're very grateful for it,
20 because she's a very experienced court administrator
21 and they've recognized that by giving her a
22 promotion. So I appreciate her being down here
23 today. She lives in Albuquerque and she left her
24 children up there, as well, so she's on the road as
25 well.

1 Joanne Standridge is going to be the CRD
2 for the case, and so she's going to be working with
3 us this morning on jury selection, and for those of
4 you who are selected to be on the jury, she'll be the
5 CRD, the courtroom deputy, that will be here
6 throughout the trial.

7 Jennifer Bean is my court reporter here,
8 and she'll be taking down everything that's said.
9 She's also from Albuquerque, so she's on the road.

10 I have three of my clerks with me. Brendan
11 Hammond is closest to me. Brendan is -- we call him
12 a Texan because he went to University of Texas Law
13 School, but he went to Cornell undergraduate and grew
14 up in the upstate New York area. He's going to leave
15 at the end of August and go work in New York for
16 Sullivan Cromwell, a big firm in New York. He'll be
17 with me throughout the trial.

18 I may have some of my other clerks with me
19 at times. Two of them are with me today. One is Ben
20 Mendelson, sitting next to Brendan. Ben is a true
21 Texan. He grew up in Austin. His family is from
22 Austin, and he went to undergraduate UT and then UT
23 law school. He's going to leave me and go back to
24 Texas. He's going to go work for Edith Jones on the
25 Fifth Circuit. Then he's going to go to New York and

1 work for Morgan Lucy, a Philadelphia firm that has a
2 big Washington office.

3 And Henry Jones is a New Mexican. He's
4 from Santa Fe, grew up in Santa Fe, went to Santa
5 Clara, California, undergraduate Berkeley, got a
6 journalism degree from Berkeley, and then went to UNM
7 law school. He externed for me. He externed for me
8 and still came back to work for me.

9 So I'm grateful for them. And we'll have
10 another clerk that may show up tomorrow, for those
11 who are selected to be on the jury.

12 There's a lot of people in the room. We're
13 going to have a rolling sort of introduction here in
14 a minute, so everybody at these tables I'll introduce
15 or let them introduce themselves here in a moment.

16 But let me explain a few things to you, and
17 let me say a few things about what we're going to do
18 and what you're here to do. First of all, I want to
19 thank you for what you've already done. As I
20 indicated a minute ago, we couldn't do in Federal
21 Court what we are going to do this morning, and maybe
22 this afternoon, without you being here. And I know
23 that some of you came from some great distances to do
24 it. We don't get a lot of ways to serve our country
25 unless we have one of those special jobs or

1 something. But we do get to vote, and we get to do
2 some other things. But one of the most important
3 things is being selected and serving and being
4 summoned to serve on a jury.

5 If you think about it, really what is going
6 to take place in this courtroom over the next few
7 weeks is one of the most democratic things we do. We
8 elect a president, Congress passes the laws, and they
9 sign them. But when we get ready to apply the law to
10 the facts, to individuals, we kind of put the
11 professionals aside and we ask the citizens to come
12 in. And that is an extraordinary thing that we do,
13 because no other country trusts its people quite like
14 we do. There are still some jury systems out there,
15 but not many, and most countries don't have jury
16 system. They don't trust the juries to apply the law
17 to the facts. And that is extraordinary. And so
18 it's something that's very, very special.

19 And so if you didn't do what you did
20 yesterday and this morning in getting here, we
21 couldn't do it, because it requires the citizens to
22 take that summons and fill out those questionnaires
23 and be very patient and give up their time to be
24 here. So I appreciate it very much, and it is
25 something that's extraordinarily special about our

1 country, that we trust the citizens at this point and
2 kind of put the professionals aside.

3 This stage of the proceedings is called the
4 voir dire or the voir dire, depending upon how you
5 say those French words. And the purpose of the voir
6 dire examination is two-fold. One, it is to enable
7 the Court to determine whether or not any of the
8 prospective jurors should be excused for cause. And
9 then secondly it's to enable the counsel for the
10 parties -- and like I said, I'm going to walk us
11 through this, and let them introduce themselves and
12 each other -- for the parties to exercise individual
13 judgment with respect to what is called peremptory
14 challenges; that is, challenges for which no reason
15 need be given; they just are given a certain number
16 to just excuse.

17 We appreciate all that you've done by
18 filling out a lot of questionnaires that may help us
19 expedite things this morning and this afternoon. On
20 the other hand, it may provide some more questions.
21 But we appreciate it, and that's a follow-up of what
22 you've already done for us.

23 Now, I'm going to -- there's going to be
24 some questions that, if you do not want to answer
25 them in front of anybody or in front of your fellow

1 jurors, you can come up here, and I've got a way to
2 sort of fog the machine up, fog the sound up here, so
3 we can talk at the bench. I'll have to, of course,
4 bring the lawyers up here and we'll discuss it here
5 at the bench, but it will keep you from having to
6 answer in front of everyone. So anytime you want to
7 do that, approach the bench, let me know.

8 I'm going to give you the first question,
9 and then I'm going to swear you in. But the first
10 question is going to be -- and let's talk about the
11 length of the trial. Presently the evidence and jury
12 deliberations are expected to take six to eight
13 weeks. You saw that in the questionnaire and the
14 cover letter that was sent to you. And so the first
15 question is going to be: Does that present any
16 special problems to any of you? But before we answer
17 that question, or begin to explore that question, let
18 me have you stand, now that you're comfortable in
19 your seats, stand and raise your right hand and
20 Ms. Wild is going to administer the oath.

21 (The venire panel was sworn.)

22 THE COURT: Is there anyone that did not
23 say "I do"? All right. Everyone be seated.

24 All right. Let's talk about that first
25 question. Understanding that the evidence and trial

1 and deliberations are expected to take about six to
2 eight weeks -- and let me give you the exact date of
3 that, get that out, so if you don't have these dates
4 memorized -- I think the end of the six weeks would
5 be March 9, and the end of the eight weeks would be
6 March 23. So understanding that period of time it
7 may take us to put this trial on, does that period of
8 time present any special problems for any of you?

9 All right. Let's start with Ms. Decramer.
10 Ms. Decramer, what special problems do the next six
11 to eight weeks present for you?

12 MS. DECRAMER: May I approach?

13 THE COURT: Sure, come on up.

14 Anyone else, the next six to eight weeks?
15 Let's see.

16 Ms. Benavidez, what special problems do the
17 next six to eight weeks present to you?

18 MS. BENAVIDEZ: Child care considerations.
19 And during the time of completing the form, I didn't
20 know that was one of the ones you could do on
21 E-juror, so that's why I didn't do it at that time.

22 THE COURT: You didn't do what? Indicate
23 what?

24 MS. BENAVIDEZ: Request an excusal or
25 deferment on the E-juror site. I didn't know that

1 qualified.

2 THE COURT: Tell me about your child care
3 situation. Describe it a little bit for me.

4 MS. BENAVIDEZ: I've got a one-year-old at
5 home.

6 THE COURT: Okay.

7 MS. BENAVIDEZ: And I'm responsible for
8 picking him up and doing activities at the end of the
9 day. My spouse takes the morning. So that would
10 impact them, as well, for work.

11 THE COURT: Remind me, Ms. Benavidez, where
12 you live.

13 MS. BENAVIDEZ: Albuquerque.

14 THE COURT: Albuquerque. If you were
15 selected, do you think you'd be able to get some help
16 picking the child up in the afternoon?

17 MS. BENAVIDEZ: Potentially.

18 THE COURT: The chances are -- I've only
19 sequestered a jury one time in my life, and that was
20 for one night. I never can predict how a trial will
21 go. I don't expect any sequestration in this case.
22 So you'd have the weekends to go back, and things
23 like that. Do you think you could make it work?

24 MS. BENAVIDEZ: Potentially.

25 THE COURT: All right. Thank you, Ms.

1 Benavidez.

2 Anybody else have their hand up?

3 Ms. Cator? Let's see. I believe that's

4 Mr. Compton?

5 PANEL MEMBER: Are you talking to me?

6 THE COURT: It's Mr. Gonzalez. Right?

7 MR. GONZALEZ: Gonzalez. 13.

8 THE COURT: What special problems does
9 the --

10 MR. GONZALEZ: Well, I'm self-employed, and
11 I run my business by myself. I take my son -- I live
12 in Roswell, but I work mostly in Artesia, New Mexico.
13 I take my son with me every day, and my child care is
14 in Artesia. And this would really set me -- it just
15 really wouldn't work out for me.

16 THE COURT: Okay. Where is your son today,
17 and how are you providing for him today?

18 MR. GONZALEZ: He's with his mother. She
19 ended up staying home for the day.

20 THE COURT: All right. If you were
21 selected for this jury, do you think she could work
22 it out and get him to his -- how old is he?

23 MR. GONZALEZ: He's one.

24 THE COURT: One. Okay. Do you think she
25 could get him to the day care?

1 MR. GONZALEZ: Well, no. She works in
2 Roswell and our child care is in Artesia.

3 THE COURT: All right. Thank you, Mr.
4 Gonzalez.

5 Anyone else in the jury box that has
6 special problems?

7 Ms. Harris, what special problems do the
8 next six to eight weeks present to you?

9 MS. HARRIS: I have a vacation planned.

10 THE COURT: All right. Tell me about your
11 vacation.

12 MS. HARRIS: It's between February 8 and
13 20th, 25th, and I've just been planning to be away
14 visiting friends during that time.

15 THE COURT: Okay. Do you have plane
16 tickets bought? Are you locked in on anything?

17 MS. HARRIS: I do have a reservation. I
18 can change the plane reservation, if I have to.

19 THE COURT: All right. Thank you,
20 Ms. Harris. Appreciate it.

21 Anyone else in the jury box, next six to
22 eight weeks? Let's see. Is that Ms. Morales?
23 Ms. Montes.

24 MS. MONTES: Montes. I have a 10-year-old
25 son, and I have a daughter with cancer at home that I

1 take care of.

2 THE COURT: All right. Who is taking care
3 of them today, Ms. Montes?

4 MS. MONTES: Right now my husband is at
5 home with her.

6 THE COURT: If you were selected, would you
7 be able to have your husband or someone --

8 MS. MONTES: Yeah.

9 THE COURT: All right. Thank you, Ms.
10 Montes. I appreciate it.

11 Anyone else in the jury box?

12 All right. Let's go to the front row in
13 the well. Does anybody have their hand up?
14 Mr. Hassell, what special problems do the next six to
15 eight weeks present for you?

16 MR. HASSELL: Yes, Your Honor. I'm
17 self-employed. I'm retired from local government
18 service, but I own a farm. And the next two months,
19 next three months, are the time for me to be prepping
20 and planting and it would have a major negative
21 financial impact on my farm if I can't get all of
22 that done. I don't have any help. It's just my wife
23 and I, and she works full-time as a seamstress.

24 THE COURT: All right. Thank you,
25 Mr. Hassell.

1 Anyone else on the front row? Let's go to
2 this portion of the well. Anyone else over in this
3 portion? Who back here? Let's go back here. I'll
4 come back to this group here, come back. You might
5 have to -- when it gets kind of far to the back, you
6 may have to stand, and then I'll have to figure out
7 who you are. Are you Ms. Bush?

8 MS. COURTIER: No, I'm Ms. Courtier.

9 THE COURT: Ms. Courtier. Okay. And what
10 special problems do the next six to eight weeks
11 present to you, Ms. Courtier?

12 MS. COURTIER: Well, I work at a senior
13 center, and we've had a lot of changes over the past
14 few months. We have about five staff that are
15 brand-new and just learning their jobs. Also, at the
16 very beginning of the month I have to submit a lot of
17 state reporting, and nobody else knows how to
18 complete that reporting except for me. And I haven't
19 had a chance to train anyone yet on how to do that.
20 And so my concern is just how would that reporting
21 get done.

22 THE COURT: All right. Thank you, Ms.
23 Courtier.

24 Who else had their hand up over here? All
25 right. You might have to stand up for me to see you

1 that far back. Are you -- let's see. Are you Mr.
2 Gallegos?

3 MR. GALLEGOS: Yes, sir.

4 THE COURT: Mr. Gallegos, what special
5 problems do the next six to eight weeks present for
6 you?

7 MR. GALLEGOS: My employment as a public
8 schoolteacher with advanced placement students. And
9 also, our school is going through an accreditation
10 process, and as a department chair, I need to be an
11 active participant in that.

12 THE COURT: All right. Thank you,
13 Mr. Gallegos.

14 Who else back there has their hand up? Is
15 that Ms. Huerta? Ms. Huerta, what special problems
16 in the next six to eight weeks?

17 MS. HUERTA: I'm the only one in the office
18 and in the entire area that does my job. I don't
19 know what would happen if nobody is there to do it.

20 THE COURT: All right. Thank you, Ms.
21 Huerta.

22 Let's see. Ms. Yatsattie?

23 MS. YATSATTIE: Yes.

24 THE COURT: What special problems?

25 MS. YATSATTIE: So I am from the Zuni

1 Pueblo, and in February and March we participate in
2 traditional activities that do not allow me to spend
3 money and I really shouldn't be traveling from home,
4 which is why this morning I also had to leave at 3:45
5 this morning, because I'm not allowed to spend money
6 until the sun rises this morning.

7 THE COURT: All right. Thank you, Ms.
8 Yatsattie.

9 Who else over there? Anybody else? Let's
10 see. Is that Ms. Gothard?

11 MS. GOTHARD: Yes, Your Honor. I take care
12 of my father, who has cirrhosis of the liver. And I
13 just am there at home with him if he needs me. And
14 so six to eight weeks may be kind of a hardship,
15 being four hours away.

16 THE COURT: Thank you, Ms. Gothard.
17 Anyone else over on this side of the room?
18 All right. I think there were some hands
19 over on my right, your left. If you'll stand and --
20 all right. Do you want to come up? Go ahead.

21 Anyone else over here that has their hand
22 up? Let's see. Ms. Wojcik? Am I saying it right?

23 MS. WOJCIK: Yes. I have a 12-year-old son
24 and my husband works on base and is often in
25 top-secret stuff where he's not reachable. So if he

1 were at school or had a reason that he needed to get
2 in touch with me, that would be difficult. No one
3 would be able to be in touch with him. Plus I
4 have -- my organization is concerned about my being
5 away, so I have a letter for that.

6 THE COURT: All right. Can you present
7 that to Ms. Standridge here. Do you have any other
8 family in the area --

9 MS. WOJCIK: Not family.

10 THE COURT: -- if an emergency came up?

11 MS. WOJCIK: I have friends.

12 THE COURT: You have friends? Okay.

13 Who else had their hands up over here?

14 All right. I'm going to go to the back
15 row, or the row right behind, and I believe that's
16 Ms. Tighe? Is that Ms. Tighe? I'm sorry, whoever
17 has got the microphone that wants to speak, they'll
18 need to stand up and speak. Y'all did some switching
19 because of the walker there? So you're Mr. Johnson?

20 MR. SANCHEZ: Sanchez.

21 THE COURT: You're Mr. Sanchez?

22 MR. SANCHEZ: Yes.

23 THE COURT: Okay. I'm having a hard time
24 with this chart. Where is Mr. Johnson? All right.
25 So -- and who is -- to your right, who is that?

1 MS. TIGHE: Ms. Tighe.

2 THE COURT: You're Ms. Tighe. Okay. So
3 Mr. Johnson switched here. We had you. So you're
4 Mr. Sanchez?

5 MR. SANCHEZ: Yes.

6 THE COURT: Let me make these changes here
7 on my chart.

8 All right. Mr. Sanchez, what problems do
9 the next six to eight weeks present for you, special
10 problems?

11 MR. SANCHEZ: Well, I'm self-employed, and
12 I have a small restaurant. And if I have to be here,
13 I'd have to be closed. So like even today, I had to,
14 like, put six employees out of work.

15 THE COURT: Okay. Thank you, Mr. Sanchez.

16 Anyone else have their hands up?
17 Mr. Billings? Is that you? What special problems do
18 the next six to eight weeks present for you?

19 MR. BILLINGS: Yes, sir, I'm a general
20 contractor at Holloman Air Force Base, and it would
21 present a financial hardship. And I'm also enrolled
22 in NMSU, going to school at night, also. So that
23 would present a problem, also, sir.

24 THE COURT: Okay. And do you go at night
25 here in Las Cruces?

1 MR. BILLINGS: In Alamogordo campus.

2 THE COURT: Alamogordo? Okay. All right.
3 What's the drive? I mean, I've made it a lot of
4 times, from Las Cruces to Alamogordo. But how far
5 out is it?

6 MR. BILLINGS: 70 miles.

7 THE COURT: What time do your classes
8 start?

9 MR. BILLINGS: 5:00.

10 THE COURT: Okay. All right. Thank you,
11 Mr. Billings.

12 Mr. Phillips? Okay. Continuing on.
13 Mr. Youngblood? What special problems do the next
14 six to seven weeks present for you?

15 MR. YOUNGBLOOD: I have two different ones,
16 sir. I'm a small business owner. I have two shops
17 in Hobbs, New Mexico. I run one of them, my son runs
18 the other, and I have a manager that flips back and
19 forth. He's also on jury duty right now in
20 Lovington, so if he has to be called in this week
21 when I'm gone, we'll have to shut one of the stores
22 down because I have nobody else to run it.

23 Also, I'm a City Council -- Hobbs City
24 Commission. I'm a candidate for District 5 and our
25 election is March 6. If I'm gone through March 6,

1 there is no way I can win the election. I've already
2 spent several thousand dollars on promotions and ads
3 and everything.

4 THE COURT: Thank you, Mr. Youngblood. I
5 appreciate it.

6 Who else? Let's see. Is that Ms. Murphy?

7 MS. LIEBHART: Sheryl Liebhart.

8 THE COURT: Okay, Ms. Liebhart.

9 MS. LIEBHART: My husband is 60 years old,
10 and normally he's in good health, but he's had a bad
11 cough and he's been really tired for about two
12 months, and we noticed how long it's been just on
13 Friday, and I'm just concerned about his health if
14 I'm gone for six to eight weeks and he's having to
15 keep up with household duties in addition to working
16 full-time.

17 THE COURT: All right. Thank you,
18 Ms. Liebhart.

19 Let's see. On my chart there is a lady
20 sitting next to you. Okay. I see you now. I
21 couldn't see because of Ms. Becker there.

22 All right. Anybody else over here?

23 MR. FINK: Yes, I'm a musician, and I've
24 had several dates booked in advance. And I provided
25 those dates in the questionnaire, as well as the jury

1 form this morning.

2 THE COURT: Are you Mr. Houghtalin?

3 MR. FINK: Jason Fink.

4 THE COURT: I'm not -- what number is that?

5 THE CLERK: It's number 59.

6 THE COURT: Okay. Mr. Fink. All right.

7 Thank you, Mr. Fink.

8 Anyone else? Let's see. Mr. Burton?

9 MR. BURTON: Mr. Burton, yes. My wife and
10 I own a fund-raising business out of Albuquerque.

11 She's the one who does the office stuff. I do the
12 presentations to the different groups, as well as we
13 have three sons. One of them is a senior, and we
14 just got his lacrosse schedule, which means we're
15 going to be traveling February 22nd through the 26th
16 to Las Vegas, Durango. We'll be there March 1st or
17 2nd through that Sunday.

18 Also, I am a supervisor for two different
19 local security companies in Albuquerque, and I just
20 got my schedule for that. So I have all the dates
21 written on that form I got this morning.

22 THE COURT: Thank you, Mr. Burton.

23 Anyone else? All right. Let me ask -- and
24 I'll look around the room and make sure we picked up
25 everybody that has special problems. Again, the

1 evidence and the conclusion of the case is expected
2 to take about six to eight months. So is there
3 anyone else that presents a special problem?

4 THE CLERK: Weeks.

5 THE COURT: What did I say? Months? It
6 may feel like that.

7 All right. Let me have Ms. Decramer come
8 up here. And Counsel, why don't y'all come up here.

9 (The following proceedings were held at the
10 bench.)

11 THE COURT: All right. Ms. Decramer, what
12 special problems do you have?

13 MS. DECRAMER: Well, when I filled out the
14 questionnaire, this problem hadn't come up. But just
15 a little background. My husband was treating for
16 prostate cancer last May, and in October he had to
17 have a procedure done for a very enlarged prostate
18 with the possibility of returning for that procedure
19 in 90 days. And Friday he was told that sometime in
20 this next two weeks we have to return to the Mayo
21 Clinic for another procedure. And we're also putting
22 our house up for sale and moving back to Minnesota.

23 THE COURT: Are you using the Mayo Clinic
24 in Phoenix or Minnesota?

25 MS. DECRAMER: Minnesota.

1 THE COURT: All right. Let me see. While
2 we're up here, does the Government have any questions
3 of Ms. Decramer?

4 MR. BECK: No, Your Honor.

5 THE COURT: How about any of the defense
6 lawyers?

7 MS. DUNCAN: No, Your Honor.

8 THE COURT: Thank you, Ms. Decramer.
9 Appreciate it.

10 Mr. Dixon, come on up.

11 MR. DIXON: I didn't really need to come up
12 here. I have a letter. Essentially I'm the only
13 person that does what I do for a client. Also, both
14 my kids are going on soccer trips for President's Day
15 to different places, so my wife and I are each going.

16 THE COURT: We're not going to be in court
17 on President's Day.

18 MR. DIXON: It's a five-day --

19 THE COURT: We're not going to be here on
20 the three-day weekend. Does that help you?

21 MR. DIXON: It's Friday through Tuesday.
22 Also, I'm a basketball official doing high school
23 games, and this is a big time of year.

24 THE COURT: Have you seen the Hobbs Eagles?

25 MR. DIXON: I've seen Clovis, but not

1 Hobbs.

2 THE COURT: They were in town Friday night.

3 MR. DIXON: Yeah, I'm pretty much right
4 there.

5 THE COURT: All right. Does the Government
6 have any questions of Mr. Dixon?

7 MR. BECK: Mr. Dixon, it sounds to me like
8 the trip for President's Day, you leave on Friday and
9 back on Tuesday; is that accurate?

10 MR. DIXON: We leave on Thursday.

11 MR. BECK: And that's both you and your
12 wife?

13 MR. DIXON: I'm going to Phoenix, she's
14 going to Las Vegas.

15 MR. BECK: That's all.

16 THE COURT: How about from the defense?

17 MS. DUNCAN: I don't have any questions,
18 Your Honor.

19 MS. BHALLA: No, Your Honor.

20 THE COURT: Thank you, Mr. Dixon. I
21 appreciate it.

22 (The following proceedings were held in
23 open court.)

24 THE COURT: All right. Anyone else that
25 the next six to eight weeks present a special problem

1 for any of you?

2 All right. Let me tell you a little bit
3 about the case. That is a criminal case. I'm not
4 going to read the indictment, but we'll be talking
5 about the indictment. But I'm going to kind of
6 summarize for you here about this case. And so the
7 question I'm going to be asking you after this is:
8 Has any member of the panel heard or read anything
9 about the case?

10 This is a criminal case brought by the
11 United States Government. Again, I'll introduce the
12 lawyers here in a moment. I'll sometimes refer to
13 the United States as the prosecution.

14 The charges against the defendants, whom
15 we'll introduce here in a moment, as well, are
16 contained in the second superseding indictment. I
17 will sometimes refer to the second superseding
18 indictment as the indictment. There are four
19 defendants who are charged in this matter, and all
20 four are charged with a crime which is a type of
21 racketeering charge. Specifically, the United States
22 alleges that the defendants were members or
23 associates of a racketeering enterprise known as
24 Sindicato de Nuevo Mexico, or SNM.

25 The four defendants are all presumed

1 innocent, and I'll be emphasizing that a lot this
2 morning as we talk about some of the questions on
3 your questionnaire.

4 Assistant United States Attorneys -- why
5 don't I go ahead and have the counsel stand for this.
6 So when your name is called, you can stand. But I'll
7 let you introduce yourself a little bit later, as
8 well.

9 But Assistant United States Attorneys Maria
10 Y. Armijo, Randy M. Castellano, and Matthew M. Beck
11 will be prosecuting this case and representing the
12 United States. Thank you.

13 The defendant are Daniel Sanchez,
14 represented by Amy Jacks and Richard Jewkes.

15 MR. JEWKES: Good morning.

16 THE COURT: Anthony Ray Baca, represented
17 by Marc M. Lowry and Theresa M. Duncan.

18 Carlos Herrera, represented by William R.
19 Maynard and Carey Bhalla.

20 And Rudy Perez, represented by Justine
21 Fox-Young and Ryan Villa.

22 The defendants are charged as follows. The
23 defendants Daniel Sanchez, Anthony Ray Baca, Carlos
24 Herrera, and Rudy Perez have been charged in the
25 indictment in Count 6 with violent crimes in aid of

1 racketeering for conspiring to murder J.M., Javier
2 Molina.

3 These defendants have also been charged in
4 the indictment in Count 7 with violent crimes in aid
5 of racketeering for the murder of J.M., Javier
6 Molina.

7 Defendant Anthony Ray Baca has been charged
8 in the indictment in Count 8 with violent crimes in
9 aid of racketeering for conspiring to commit assault
10 resulting in serious bodily injury to J.R., Julian
11 Romero. And defendant Anthony Ray Baca has been
12 charged in the indictment in Count 9 with violent
13 crimes in aid of racketeering for conspiring for
14 murder D.S., Duane Santistevan. And defendant
15 Anthony Ray Baca has been charged in the indictment
16 in Count 10 with violent crimes in aid of
17 racketeering for conspiring to murder G.M., who is
18 Gregg Marcantel.

19 All defendants have pled not guilty to all
20 of the respective charges and, again, are presumed
21 innocent. Has any member of the panel heard or read
22 anything about the case?

23 If you have, why don't you come up and line
24 up, because I don't want to have you talking about
25 what you know about the case in front of everybody

1 else. So if you'll just make your way up here, that
2 will help me out. So everybody that has heard or
3 read anything about the case, if you'll make your way
4 up here. The lawyers, if you'll come up here, and
5 we'll discuss with the jurors individually what they
6 have heard or read about the case.

7 (The following proceedings were held at the
8 bench.)

9 THE COURT: All right, Mr. Oldknow.

10 MR. OLDKNOW: Last name is Oldknow, juror
11 10.

12 THE COURT: Mr. Oldknow, how are you doing
13 today?

14 MR. OLDKNOW: I'm doing okay. Thank you,
15 sir.

16 THE COURT: Tell me what you have heard or
17 read about this case.

18 MR. OLDKNOW: I am a Freemason, and when I
19 was preliminarily summoned and I ended up talking
20 with the secretary of the Lodge, who is a retired
21 commander of the state police, he shared with me a
22 little bit about the Sindicato in the past, the
23 Astorga case particularly, that he was influenced by,
24 but particularly to this case, and I have to admit I
25 don't know. I did look at what I believe is called

1 an affidavit for a member of the Sindicato by the
2 name of Benito. It was an affidavit to hold him
3 over, to keep in jail awaiting trial. So I was
4 exposed to the information in that.

5 THE COURT: Okay. Now, I'm not sure I know
6 about this affidavit. Maybe all the lawyers here do.
7 But can you tell me what that affidavit says?

8 MR. OLDKNOW: It was an argument made to --
9 he was seeking to be released during the time
10 awaiting trial. And it went over -- he was making an
11 argument that he had turned a new leaf. Subsequent
12 to the mid 2000s, when you look at his time in jail,
13 when you look at -- I guess the best way to say it, I
14 was hard-pressed to hear that as a defense and an
15 excuse. He was still deeply involved in what he was
16 doing.

17 THE COURT: Now, we haven't -- you've now
18 heard the introduction of the defendants. Whoever
19 this gentleman is is not a party of this case, and it
20 sounds like you -- I don't want to put words in your
21 mouth. It sounds like you know a little bit about
22 the SNM, but you don't know a lot about this
23 particular case. Is that fair?

24 MR. OLDKNOW: I've learned a little bit
25 about SNM. The other thing that I think it's prudent

1 to mention, Your Honor, out of good conscience, my
2 family history, my mother was the supervising nurse
3 at St. Vincent's Hospital. And in 1980, during the
4 state prison riot, there were other influences upon
5 my extended family who suffered from post-traumatic
6 stress from exposure to the events in the riot. And
7 thank you for the opportunity to do this not in
8 public. I understand that the Sindicato emerged in a
9 lot of ways as a reaction to the events of 1980. So
10 when I received the original questionnaire and saw
11 the name, I had to look into who it was. And so I
12 just think it's important to mention that.

13 THE COURT: Okay. Can you tell me what you
14 have read or heard about SNM?

15 MR. OLDKNOW: They're a significant prison
16 gang. They have strong relationships with the
17 smaller gangs, the community gangs in town. They use
18 them as feeders and as enforcement. They're involved
19 in drug-running, they're involved in murder
20 enforcement, racketeering in general. Most of what
21 I've learned directly about the Sindicato I picked up
22 from reading that piece on --

23 THE COURT: That affidavit?

24 MR. OLDKNOW: -- that affidavit.

25 THE COURT: There's going to be probably a

1 lot people that live in New Mexico, and have heard of
2 the SNM. Of course, a lot of people of my age and
3 things lived through the prison riots and know about
4 that. Knowing what you know, and now knowing a
5 little bit what the charges are in this case, do you
6 think you could be fair and impartial to both parties
7 in this case?

8 MR. OLDKNOW: Sir, I am a bleeding-heart
9 liberal and it is only with good conscience that I
10 have to admit and at my age I'd like to believe that
11 I'm impartial to anybody. But frankly, sir, no. My
12 mother died because of this. She ended up drinking.
13 She lost her faith in humanity and the spirit of
14 humanity. Our extended family relationship to Lujan,
15 David Martinez, up in Santa Fe -- his father was
16 Valentine Martinez, spent three days up on the roof
17 while the prisoners rioted. I have a difficult time
18 separating. I can do it logically, but I have a hard
19 time in my heart separating that out.

20 THE COURT: Now, when you say you don't
21 think you could be fair and impartial, do you think
22 you would be biased in favor of the Government in
23 this case?

24 MR. OLDKNOW: Yes, sir.

25 THE COURT: All right. Thank you,

1 Mr. Oldknow.

2 Mr. Beck, do you have questions?

3 MR. BECK: If the judge in this case
4 instructs you that you are to set aside any bias or
5 prejudice you may have before hearing the evidence
6 and base your decision only on the evidence presented
7 during this trial, could you follow that instruction
8 to base your decision at the end of this trial only
9 on the evidence?

10 MR. OLDKNOW: You know, to the extent that
11 I understand the law -- and I've tried to think about
12 this coming down here, to give you all the most frank
13 answer that I can, this isn't -- I've always liked to
14 believe that I can be rational and I can be logical,
15 that I can piece that out. But I have gone through
16 things in my life that have been as difficult and as
17 prolonged and the colored history of my family with
18 the events around the state pen riot. I can't answer
19 that question, in all honesty. In my heart of
20 hearts, I'm very angry. I've been angry most of my
21 life about this. If it was purely a rational
22 consideration, I'd like to think I could. But again,
23 in good conscience here, in selecting an impartial
24 jury of our peers -- and I would love to serve. I've
25 never served on jury duty my entire life. I've

1 looked forward to this. But I don't think this is
2 the right one for me.

3 MR. BECK: I appreciate that. In some
4 cases it's just not the right juror for the right
5 case. It sounds like you have made a decision that
6 you cannot be fair and impartial in this case.

7 MR. OLDKNOW: You know, again, just to
8 be -- full disclosure, I can't say that I've made a
9 decision. I guess it appears that I can't sit here
10 and stand here and honestly make a decision that
11 concerns me about my ability to be able to make an
12 impartial judgment.

13 MR. BECK: If there is evidence in this
14 case that the prison riots happened before the SNM
15 came together, but there is evidence of the prison
16 riot, could you be fair and impartial sitting on the
17 jury in this case?

18 MR. OLDKNOW: I already believe that there
19 is a causal link between the prison riots and the
20 development of SNM.

21 MR. BECK: I don't want to cut you off.
22 You said earlier -- and I said the judge will
23 instruct you that you'll have to set aside any
24 preconceived notions that you have and base your
25 decision in this case on only the evidence. So

1 assuming that, will you be able to set aside what you
2 think is the causal link between the SNM and the
3 prison riot?

4 MR. OLDKNOW: Again, if it was a rational
5 decision, if what was affecting me was just up in my
6 head, I'd like to believe that I could. This is a
7 lifetime of pain and recovery of what it did to my
8 family. The subtle ways that emotion interferes and
9 guides thinking, no.

10 MR. BECK: I appreciate that. Thank you
11 for sharing that. Thank you.

12 THE COURT: Thank you, Mr. Beck.

13 How about from the defendants? Ms. Duncan?

14 MS. DUNCAN: No, Your Honor.

15 THE COURT: Mr. Villa, Ms. Jacks? If you
16 want to get a little closer.

17 MS. JACKS: I just had trouble seeing when
18 you were talking. I detected that you had a visceral
19 or emotional reaction to some of the questions but I
20 couldn't see, so I'm wondering if that's true.

21 MR. OLDKNOW: Yes, that's true. And I
22 appreciate being able to do this and not having to
23 say it in public.

24 THE COURT: Ms. Jacks, Ms. Bhalla?

25 MR. VILLA: I didn't catch your last name.

1 THE COURT: He's Mr. Oldknow. He's juror
2 10.

3 All right. Thank you, Mr. Oldknow.

4 All right. If you'll stand right here,
5 you'll have to give me your name again.

6 MR. COMPTON: Lawrence Compton.

7 THE COURT: And you're juror number 14;
8 right?

9 MR. COMPTON: Yes.

10 THE COURT: How are you doing today?

11 MR. COMPTON: Fine, thank you.

12 THE COURT: Good. And what have you heard
13 or read about this case?

14 MR. COMPTON: There was an article in the
15 Albuquerque Journal in December that announced that
16 the trial was coming up.

17 THE COURT: Okay.

18 MR. COMPTON: And I knew that was the trial
19 I was being summoned before.

20 THE COURT: Did you read the article?

21 MR. COMPTON: I read the article.

22 THE COURT: Do you recall what you read?

23 MR. COMPTON: I recall that it's about the
24 Sindicato, alleged drug gang, and that all I can
25 really remember is allegedly the defendants, some of

1 them -- I don't know if it was all of them -- there
2 were recordings on taped phone calls or something.

3 THE COURT: Okay.

4 MR. COMPTON: That the crime was allegedly
5 committed, ordering someone to be murdered.

6 THE COURT: Anything else that you recall
7 reading or hearing about this case?

8 MR. COMPTON: Well, it was on the front
9 page of Sunday's newspaper, but I didn't read it.

10 THE COURT: Good for you. Thank you for
11 doing that. So you saw the headline and didn't read
12 it for a while?

13 MR. COMPTON: Right.

14 THE COURT: You didn't read it?

15 MR. COMPTON: Not the one last Sunday.

16 THE COURT: Good for you. Thank you.
17 Anything else you recall reading or hearing about
18 this case?

19 MR. COMPTON: No.

20 THE COURT: Any other details that come to
21 mind?

22 MR. COMPTON: No.

23 THE COURT: All right. You know a little
24 bit about the case that I just described to you and
25 that one article. Is there anything in your head

1 that you think, starting off, would keep you from
2 being fair and impartial to both sides in this case?

3 MR. COMPTON: No.

4 THE COURT: Do you think you could be fair
5 and impartial?

6 MR. COMPTON: Yes.

7 THE COURT: Okay. Mr. Beck?

8 MR. BECK: If in the course of this case
9 the judge instructs you that you are to base your
10 decision at the end of this case on only the evidence
11 presented in this courtroom, can you do that?

12 MR. COMPTON: Yes.

13 THE COURT: All right. Then Ms. Duncan.

14 MS. DUNCAN: Thank you, Your Honor.

15 Mr. Compton, do you recall reading anything
16 about the specific defendants in this case? So when
17 the judge went through the names of the defendants,
18 did that remind you of anything in particular that
19 you read about them in the article?

20 MR. COMPTON: Some or all of them I think
21 are in prison or have been or are currently in
22 prison.

23 MS. DUNCAN: Okay.

24 MR. COMPTON: And so it was ordering
25 someone outside of prison to do the murder. That's

1 all I can remember.

2 MS. DUNCAN: And having read the defendants
3 are in prison at the time, what did you think when
4 you read that?

5 MR. COMPTON: I'm sure they're serious
6 criminals, but I don't recall who was in for what.
7 It was related to this drug gang, is what I think I
8 remember.

9 MS. DUNCAN: And having -- okay. So you
10 said that you thought they were serious criminals.
11 How, if at all, would that affect your ability to
12 consider the evidence in this case?

13 MR. COMPTON: Well, as I filled out in the
14 long questionnaire, I think most of the time,
15 especially in a federal case, I think the prosecution
16 or the evidence is good or is probably correct, but I
17 would certainly want to hear it. I don't think the
18 police are always wrong.

19 MS. DUNCAN: So if I understand you
20 correctly, having read this article and then thought
21 about it, the assumption for you was the defendant
22 must have done something?

23 MR. COMPTON: I wouldn't say "must have."
24 I'd have to listen to the evidence.

25 MS. DUNCAN: So would you say -- what is

1 your thought about, awaiting trial, whether the
2 defendants are guilty or not guilty standing right
3 here?

4 MR. COMPTON: I don't know. I'd have to
5 listen to the evidence.

6 MS. DUNCAN: I have no further questions.

7 THE COURT: Thank you, Ms. Duncan.

8 Ms. Bhalla, do you want to come a little
9 closer?

10 MS. BHALLA: Having read the article and
11 realizing that these people are in prison, it's a
12 gang, there are drugs involved, do you think that
13 that affects your ability to sort of come in here and
14 presume them to be innocent? Do you have a
15 preconceived idea that they must have done something?

16 MR. COMPTON: My bias would probably be
17 someone probably is guilty of something, but you
18 know...

19 MS. BHALLA: Okay. So you're starting out
20 of the gate with that.

21 MR. COMPTON: Yes.

22 MS. BHALLA: Just because you read that in
23 the newspaper?

24 MR. COMPTON: Well, yeah.

25 MS. BHALLA: Okay.

1 MR. COMPTON: To be honest, yeah.

2 MS. BHALLA: And do you think it's going to
3 be hard for you to put that out of your mind?

4 MR. COMPTON: It might be. I've never been
5 on this kind of trial, case before; not something
6 involving murder.

7 MS. BHALLA: You've been on a criminal case
8 before?

9 MR. COMPTON: Once when I lived in Athens,
10 Georgia. It was alleged drug-dealing.

11 MS. BHALLA: Okay. And will that affect
12 your ability to sit on this case? Does that shape
13 your mind?

14 MR. COMPTON: How do you mean?

15 MS. BHALLA: Well, I mean, sitting on a
16 case that involved drugs, reading the article that
17 drugs might be involved in this case, do you have a
18 disposition that might affect your ability?

19 MR. COMPTON: It wasn't a very pleasant
20 experience being on that trial. I voted with
21 everybody else to convict the guy and afterwards I
22 wasn't sure, so I always regretted it. I thought it
23 was pretty heavy-handed going after this man who had
24 drugs on him, that -- it was hard, because it was,
25 like, pressure when you're on a jury, okay, this guy

1 was guilty. By the letter of the law it seems that
2 he was, but I still felt bad about it.

3 MS. BHALLA: Okay. Coming off that
4 experience, do you feel like you'd be able to have
5 your voice be your voice and not feel pressure this
6 time?

7 MR. COMPTON: This time I will try to, yes.
8 I was much younger then. Well, it was a while ago.

9 MS. BHALLA: Okay. So I guess just going
10 back to the original issue that you brought up, given
11 what you've read in the paper, given what you've seen
12 and what you know, you're more inclined to believe
13 that they're guilty right now than to believe they're
14 innocent?

15 MR. COMPTON: Probably.

16 MS. BHALLA: Okay.

17 THE COURT: All right. Thank you, Ms.
18 Bhalla.

19 Mr. Villa.

20 MR. VILLA: Yes, just briefly. Mr.
21 Compton, if you heard some evidence similar to what
22 you read in the paper about this Sindicato, the
23 specific acts that each defendant is being charged
24 with, if you had some doubts or it was a close call,
25 okay, about whether they actually committed the

1 crimes that the Government says they committed,
2 knowing what you read in the paper and maybe hearing
3 some evidence like that, do you think that would
4 affect your ability to vote not guilty if you thought
5 it was a close call if you had some doubt?

6 MR. COMPTON: Whatever, I don't think it
7 would affect my ability, no, because I really didn't
8 read a lot about it. It was just an article.

9 MR. VILLA: So you mentioned some things
10 about this is a federal case and the Government has
11 some evidence?

12 MR. COMPTON: Sure.

13 MR. VILLA: So you're saying when you talk
14 about the specific charges that the defendants are
15 charged with, would hearing evidence about other
16 things they do, such as drug activity or other, like,
17 conspiracies, things that you're not asked to find
18 them guilty of in this case?

19 MR. COMPTON: I know I should, so I will.

20 THE COURT: Ms. Jacks? Mr. Compton, thank
21 you very much. I appreciate it.

22 Ms. Tighe, if you can make your way in
23 here.

24 Y'all are going to have to let Ms. Tighe
25 in. She's got a walker here. Let her get in here.

1 Ms. Tighe, how are you doing today?

2 MS. TIGHE: Okay.

3 THE COURT: Can you tell me what you have
4 heard or read about this case?

5 MS. TIGHE: I saw the article in the
6 Albuquerque Journal yesterday.

7 THE COURT: Did you read it?

8 MS. TIGHE: I read part of it.

9 THE COURT: How much did you read?

10 MS. TIGHE: Probably at least half. I
11 skimmed the rest.

12 THE COURT: Half of it and skimmed the
13 rest?

14 MS. TIGHE: I didn't know what the article
15 was about, so I started reading. Then I realized
16 what it was about. I was, like, that sort of made me
17 feel unable to render a fair verdict on it, if you
18 like. It was just too much influence that I can't
19 render a fair verdict.

20 THE COURT: Let's start with what you read
21 or heard. Can you tell us everything that you
22 remember reading or hearing about the case?

23 MS. TIGHE: What I remember reading, that
24 the case is about this gang that's in prison up in --
25 I'm not sure what prison they're in, but already in

1 prison, and the gang leader ordered the murder of
2 this one person. And I feel like they're certainly
3 capable of doing it. They probably did do it. I
4 don't remember all the rest of the details, but --

5 THE COURT: Do you remember any other
6 details about the article?

7 MS. TIGHE: I didn't read, you know,
8 enough. I skimmed the rest.

9 THE COURT: What is it about it, after
10 reading that much, that makes you think you cannot be
11 fair and impartial?

12 MS. TIGHE: It's the fact that they're
13 already in prison, they've obviously committed
14 crimes, and they're certainly likely to have ordered,
15 you know, the murders of other persons and are
16 involved in other crimes.

17 THE COURT: Okay. Now, I've mentioned
18 twice already that they pled not guilty.

19 MS. TIGHE: I understand.

20 THE COURT: And they're presumed innocent.

21 MS. TIGHE: Yes.

22 THE COURT: Do you think you would be able
23 to presume them innocent?

24 MS. TIGHE: No, sir, I honestly can't.

25 THE COURT: And what I think I heard you

1 say earlier is that you don't think you could be fair
2 and impartial to the parties in this case?

3 MS. TIGHE: Correct.

4 THE COURT: When you say that, do you mean
5 that you would be biased for the Government rather
6 than --

7 MS. TIGHE: Yes, sir I believe I would.

8 THE COURT: You'd already have in your mind
9 that those men are guilty?

10 MS. TIGHE: Yes, sir.

11 THE COURT: Okay.

12 All right. Mr. Beck, do you have questions
13 of Ms. Tighe?

14 MR. BECK: Ms. Tighe, thank you for
15 sharing. I just want to make sure that we're clear
16 that if you are selected for this jury and the judge
17 instructs you that the defendants have the right to
18 be presumed innocent until proven guilty beyond a
19 reasonable doubt that you cannot follow that
20 instruction and presume them innocent; is that right?

21 MS. TIGHE: Correct.

22 THE COURT: Thank you, Mr. Beck.

23 Ms. Duncan?

24 MS. DUNCAN: Nothing further.

25 THE COURT: Ms. Bhalla, Mr. Villa?

1 MR. VILLA: No, Your Honor.

2 THE COURT: Ms. Jacks?

3 MS. JACKS: No, Your Honor.

4 THE COURT: Thank you, Ms. Tighe. I
5 appreciate it.

6 If you'll come right here to this
7 microphone, we'll put you in the middle. Can you
8 remind me of your name?

9 MR. BESSON: Tommie Besson.

10 THE COURT: Do you remember what number you
11 are?

12 MR. BESSON: 16.

13 THE COURT: You're number 16. All right.
14 Mr. Besson, how are you doing today?

15 MR. BESSON: Well.

16 THE COURT: What have you read or heard
17 about the case?

18 MR. BESSON: Primarily I read the article
19 in the Albuquerque Journal yesterday morning about
20 the security concerns.

21 THE COURT: Did you read the whole article?

22 MR. BESSON: Yes, I did.

23 THE COURT: And do you recall what you
24 read?

25 MR. BESSON: It basically explained the

1 charges brought against the defendants and the
2 security concerns that the U.S. Marshals had.

3 THE COURT: Okay. Anything else you
4 remember about the case?

5 MR. BESSON: That's basically it.

6 THE COURT: After reading that article --
7 I've already indicated that these men pled not guilty
8 and that they're presumed innocent. Do you think you
9 could be fair and impartial to the parties in this
10 case, both the Government and the four defendants
11 here?

12 MR. BESSON: I think so.

13 THE COURT: Is there anything about what
14 you read yesterday that you think would influence
15 you? In the course of listening to my instructions
16 and listening to the evidence and, most importantly,
17 at the end deliberating on this, is there anything
18 that you think might be in your mind that would cause
19 you to lean one way or another?

20 MR. BESSON: No.

21 THE COURT: Mr. Beck?

22 MR. BECK: Thank you. Mr. Besson, if in
23 the course of this trial you're selected for the jury
24 and the judge instructs that you're to base your
25 decision only on the evidence presented in court,

1 will you be able to set aside what you may have read
2 in the Albuquerque Journal and base your decision at
3 the end of this only on the evidence presented here
4 in court?

5 MR. BESSON: Yes, I think so.

6 MR. BECK: All right. Nothing further,
7 Your Honor.

8 THE COURT: Ms. Duncan?

9 MR. JEWKES: Your Honor, may I?

10 Mr. Besson, after reading the article
11 yesterday in the Albuquerque Journal, did you think
12 to yourself, These guys are probably guilty of
13 something? Did that cross your mind?

14 MR. BESSON: Well, they have to have been
15 guilty of something, or they wouldn't be
16 incarcerated.

17 MR. JEWKES: Something new?

18 MR. BESSON: No.

19 MR. JEWKES: Did not?

20 MR. BESSON: No.

21 MR. JEWKES: So could you put it aside and
22 judge this case strictly on the evidence you hear
23 from the witness stand?

24 MR. BESSON: Yes.

25 MR. JEWKES: All right.

1 THE COURT: Thank you, Mr. Jewkes.

2 Ms. Duncan?

3 MS. DUNCAN: Thank you.

4 Mr. Besson, did you discuss the article
5 with anyone after you read it?

6 MR. BESSON: I discussed it with my wife.

7 MS. DUNCAN: And what did you discuss with
8 your wife?

9 MR. BESSON: Basically the security
10 concerns.

11 MS. DUNCAN: And why did you discuss those
12 with your wife?

13 MR. BESSON: Because that would affect,
14 potentially, security.

15 MS. DUNCAN: So you had concerns about your
16 security participating in the trial?

17 MR. BESSON: My safety, yes.

18 MS. DUNCAN: So tell me about those
19 concerns.

20 MR. BESSON: I'm concerned that there could
21 be a revenge taken out if the jury came back with a
22 guilty verdict.

23 MS. DUNCAN: And does your wife share that
24 concern?

25 MR. BESSON: Yes.

1 MS. DUNCAN: And is that concern something
2 that would be on your mind as you were hearing
3 evidence in this case?

4 MR. BESSON: No, I don't think so. It
5 would be more of a concern after the trial was over.

6 MS. DUNCAN: And so tell me what in
7 particular raises concern for your safety.

8 MR. BESSON: That there may be other
9 members of this gang, if you will, that are outside
10 of the courthouse that may seek retribution on behalf
11 of the defendants.

12 MS. DUNCAN: And so sitting here today --
13 and then -- so I understand, your concern there might
14 be people outside of the courtroom who might pose a
15 threat to your safety; is that correct?

16 MR. BESSON: Yes.

17 MS. DUNCAN: And I think you said that was
18 primarily at the end of the trial, but do you have a
19 concern today about that?

20 MR. BESSON: No.

21 MS. DUNCAN: And why not?

22 MR. BESSON: I think there's just too many
23 people for them to identify.

24 MS. DUNCAN: What if you're selected as a
25 juror in this case?

1 MR. BESSON: Then it becomes a concern.

2 MS. DUNCAN: No further questions.

3 THE COURT: Thank you, Ms. Duncan.

4 Ms. Bhalla?

5 MS. BHALLA: I missed the last part, so I
6 may repeat. I apologize. You said if you get
7 selected as a juror, your security might be a
8 concern.

9 MR. BESSON: Yes.

10 MS. BHALLA: Okay. Do you think that that
11 would be something that you'd think about when you
12 enter deliberations?

13 MR. BESSON: No.

14 MS. BHALLA: Okay. If it's a concern to
15 you, how are you going to be able to set that out of
16 your mind during deliberations?

17 MR. BESSON: The concern is outside of this
18 court, courthouse.

19 MS. BHALLA: Right. And I guess I'm asking
20 you: How are you going to be able to set that aside,
21 set that concern aside, if you're going to be on the
22 jury?

23 MR. BESSON: I'm going to write to the
24 Court to keep my personal information confidential.

25 MS. BHALLA: Does it -- you're aware that

1 your name's out there?

2 MR. BESSON: Yes.

3 MS. BHALLA: And is that going to be a
4 concern to you?

5 MR. BESSON: No.

6 MS. BHALLA: And I think I'm good. Thank
7 you.

8 THE COURT: Thank you, Ms. Bhalla.

9 Mr. Villa.

10 MR. VILLA: Mr. Besson, can you tell me the
11 specific security concerns that you read about in the
12 article?

13 MR. BESSON: Just that there were concerns
14 about having the U.S. Marshals here in case there was
15 any threats. And the other concern was, I believe
16 the Judge had some concerns about having -- whether
17 the defendants should be in shackles or whatever,
18 that the jury could see.

19 MR. VILLA: Do you remember reading
20 anything else in that article about security
21 concerns?

22 MR. BESSON: That's all I remember.

23 MR. VILLA: Having heard those concerns, do
24 you think that that makes -- slants the way you view
25 the evidence in this case?

1 MR. BESSON: I don't think so.

2 MR. VILLA: Now, you mentioned that you had
3 a concern that maybe there might be retribution and
4 revenge for a guilty verdict?

5 MR. BESSON: Yes.

6 MR. VILLA: You meant retribution towards
7 the jury?

8 MR. BESSON: Yes.

9 MR. VILLA: So if you're in the jury room
10 and you're discussing whether to vote guilty or not
11 guilty for a particular defendant, would those
12 concerns affect your ability to make that decision?

13 MR. BESSON: I don't think so.

14 MR. VILLA: Why not?

15 MR. BESSON: Because inside the jury room
16 we're protected, and we have to render a fair
17 verdict. Outside the courtroom is where I'm
18 concerned for safety.

19 MR. VILLA: Did you discuss with anybody
20 else this article, other than your wife?

21 MR. BESSON: No.

22 MR. VILLA: That's all.

23 THE COURT: Thank you, Mr. Villa.

24 Ms. Jacks. Do you have anything further?

25 MS. JACKS: Good morning, Mr. Besson. I

1 have a few questions. You said that you read the
2 full article in the Albuquerque Journal.

3 MR. BESSON: Yes.

4 MS. JACKS: And do you have any, I guess,
5 opinions about as to whether the defendants sitting
6 here in court are members of the SNM Gang that was
7 discussed in the article?

8 MR. BESSON: I know they've been accused of
9 that, but I don't know for sure.

10 MS. JACKS: And do you have any opinion
11 about why the defendants in court are shackled, based
12 on what you read in the article?

13 MR. BESSON: No. They don't appear to be,
14 from what I've seen.

15 MS. JACKS: And when you saw the article
16 yesterday morning, did you realize that the article
17 was about the case that you were summoned here for
18 today?

19 MR. BESSON: Yes.

20 MS. JACKS: And was that when you first saw
21 the headline?

22 MR. BESSON: Yes.

23 MS. JACKS: And did you go ahead and read
24 the full article anyway?

25 MR. BESSON: I did because of my safety

1 concerns.

2 MS. JACKS: And were you instructed when
3 you filled out the questionnaire to not seek out
4 publicity regarding the case?

5 MR. BESSON: Yes.

6 MS. JACKS: And you recall those
7 instructions?

8 MR. BESSON: Yes.

9 MS. JACKS: And you read the article anyway
10 because you thought your security concerns trump
11 those instructions?

12 MR. BESSON: Yes.

13 MS. JACKS: Thank you.

14 THE COURT: All right. Thank you, Mr.
15 Compton. Appreciate it.

16 MR. BESSON: Besson.

17 THE COURT: I mean Mr. Besson. I'm sorry.
18 You're Mr. Hassell; right?

19 MR. HASSELL: Yes.

20 THE COURT: Mr. Hassell, if you'll stand
21 there. How are you today?

22 MR. HASSELL: I'm fine, thank you, sir.

23 THE COURT: What have you heard or read
24 about this case?

25 MR. HASSELL: In the past I read an

1 article. I can't remember which -- I think it was
2 the Albuquerque Journal. There was nothing real
3 specific. Just basically the same information that
4 you reiterated here. Then I've heard a local radio
5 piece. They ran one this morning on the way down to
6 jury selection.

7 THE COURT: Let's talk about the article
8 that you said you think you may have read in the
9 Albuquerque Journal. Do you recall about when that
10 article was?

11 MR. HASSELL: You know, I really don't. It
12 was before I received the jury summons. I know that.
13 Something that didn't really draw my attention much,
14 but something I read in passing. And my mom lives up
15 in Tome, so for whatever reason, it just interested
16 me. And again, it was a real general article. I
17 don't think there was anything -- I think the gist of
18 it was that -- the same with some of the reports,
19 maybe a little sensationalized. That it's high
20 profile, and these guys are potentially pretty
21 dangerous guys, but otherwise --

22 THE COURT: Do you recall -- we'll stick
23 with the article for a second. Do you recall any
24 details about anything from that article you can
25 think of today?

1 MR. HASSELL: No. I mean, the report that
2 I read was pretty much the same as what I've heard,
3 just generalization about what the case was and what
4 this Sindicato, gang, or whatever it was about.

5 THE COURT: You said you heard one radio
6 report this morning? Is that what you said?

7 MR. HASSELL: Yes.

8 THE COURT: What do you recall it saying?

9 MR. HASSELL: It was that the trial would
10 start today, and that it was a pretty high-profile
11 case, and then they just did kind of a brief summary
12 of what this group is. And I don't think they got
13 into any of the charges, but they made it clear that
14 they were pretty heavy-duty crimes, I guess.

15 THE COURT: And other than that radio
16 report this morning and the article a few months
17 back, do you recall hearing or reading anything about
18 this case?

19 MR. HASSELL: No.

20 THE COURT: Any of the details that you
21 have read or heard stick out in your mind in any way?

22 MR. HASSELL: No, the only thing that
23 sticks out in my mind is, you know, this is kind of
24 an organized group, I guess. I usually read stuff
25 about gangs, they're individual people who have done

1 things. That's the only thing that stuck in my mind,
2 that these guys seem to be more of a collection of
3 people working together as a group, as opposed to one
4 person.

5 THE COURT: Given what you've read or
6 heard, is there anything that you've read or heard
7 that you think would keep you from being impartial
8 and fair to both sides, both the Government and
9 defendants?

10 MR. HASSELL: I don't think it would make a
11 difference. I mean --

12 THE COURT: All right. Mr. Beck?

13 MR. BECK: Mr. Hassell, if the judge
14 instructs you that the defendants are to be presumed
15 innocent until proven guilty, can you follow that
16 instruction and presume them innocent even given what
17 you've read or heard?

18 MR. HASSELL: Yeah, I think so. I mean,
19 I've served on our juries before. I served on a
20 state murder trial and, you know, everybody gets a
21 chance at the law. So yeah, I don't think it would
22 prejudice my opinion.

23 MR. BECK: And do you agree with that law
24 that a defendant has the right to be presumed
25 innocent until proven guilty?

1 MR. HASSELL: Absolutely.

2 MR. BECK: If the judge instructs you, and
3 you're picked for the jury, that you're to set aside
4 anything you may have read or heard about this case,
5 and judge the guilt of each defendant based only on
6 the evidence presented here in court, can you follow
7 that instruction, given what you've read in the
8 article?

9 MR. HASSELL: I believe it's not much
10 different than what I've heard this morning with the
11 judge's remarks, I mean.

12 MR. BECK: Nothing further, Your Honor.

13 THE COURT: Thank you, Mr. Beck.

14 Ms. Duncan.

15 MS. DUNCAN: Thank you, Your Honor.

16 You mentioned that you had listened to the
17 radio and heard a report about this case this
18 morning. Have you heard anything else on the radio
19 about this case?

20 MR. HASSELL: You know, I halfway want to
21 say yes, but I can't definitively remember. I think
22 that there was another report. I listen to the same
23 radio station all the time, and I think it may have
24 been reported once prior. But it definitely was
25 reported this morning. It kind of surprised me,

1 so...

2 MS. DUNCAN: And how about the TV news?
3 Have you ever seen a report about this on TV news?

4 MR. HASSELL: I don't watch much TV. Too
5 busy.

6 MS. DUNCAN: I'm sorry, I was having
7 trouble hearing behind, so I may repeat myself. Does
8 anything in particular stick out to you this morning
9 that you heard on the radio?

10 MR. HASSELL: The only thing that really
11 stuck in my head is that you usually hear these
12 people being indicted for crimes individually. But
13 this is more like a group of people who are
14 associated, more of a -- I guess, what's coming to
15 me -- comes to my mind is, like, the mob or people
16 who are working together, which seems not real
17 common.

18 MS. DUNCAN: And do you remember any
19 specifics about how they are as a group working
20 together? What gave you that impression?

21 MR. HASSELL: The name pretty well says it,
22 New Mexico syndicate. And just the way the report,
23 both written and on the radio, put it together that,
24 wait a minute, they made it pretty clear they were
25 working together. And the fact that they're all

1 being tried together. I mean, it's kind of easy to
2 draw that conclusion.

3 MS. DUNCAN: Do you think if you listen to
4 the evidence in this case you'll be able to put aside
5 what you heard on the radio?

6 MR. HASSELL: Yeah. There's nothing that I
7 heard on the radio that was anything more
8 inflammatory that would change my mind about
9 anything. I mean, it was all pretty basic
10 information.

11 MS. DUNCAN: Thank you, Mr. Hassell.

12 THE COURT: Thank you, Ms. Duncan.

13 Ms. Bhalla?

14 MS. BHALLA: Your Honor, I don't have any
15 questions about what he read in the paper, but I did
16 want to ask him about his farm, if that's okay.

17 THE COURT: Go ahead.

18 MS. BHALLA: You're a pecan farmer?

19 MR. HASSELL: I have pecans, 200 trees, and
20 livestock.

21 MS. BHALLA: So it's your busy season
22 coming up?

23 MR. HASSELL: Yeah. I mean, I have to get
24 all my crops ready to plant now and I'm harvesting my
25 pecans as we speak.

1 MS. BHALLA: Is there anybody who can
2 handle that for you?

3 MR. HASSELL: No.

4 MS. BHALLA: And are you going to be
5 thinking about that if you get selected for the jury?

6 MR. HASSELL: Very much. I mean, it's
7 about a third of my income, and it's my operating
8 income for the farm. So if I can't get my crops in
9 the ground -- and I have livestock. I have pregnant
10 cows and pregnant sheep, and it's just my wife. My
11 dad got ill last year and he died. It was his place,
12 and I took care of it for him. So I don't have
13 anyone at the farm.

14 MS. BHALLA: So is it fair to say that that
15 concern is going to be weighing on your mind when
16 you're trying to pay attention and listen to the
17 evidence in this case?

18 MR. HASSELL: Well, I could probably still
19 listen to the evidence, but it's going to be a real
20 hardship for me. And yeah, it would be a problem.

21 MS. BHALLA: Okay.

22 THE COURT: Thank you, Ms. Bhalla.

23 Mr. Villa?

24 MR. VILLA: Yes, Your Honor.

25 Mr. Hassell, I just want to follow up on

1 that briefly. Is there somebody that could --
2 somebody you could contract with that could help do
3 the job that you normally do?

4 MR. HASSELL: I've only got 11 acres out
5 there, and by the time I pay somebody, I've burned up
6 all of my operating expense. So it's something that
7 I just can't afford to bring somebody in and pay them
8 to take care of it. I have some kids, but they're
9 all working full-time jobs, so they can't come over
10 and help me. They help me bring in my pecan crop but
11 I still have to sort and clean and take them down to
12 sell.

13 MR. VILLA: So hiring somebody, you'll
14 still suffer a financial hardship?

15 MR. HASSELL: I'd end up basically paying
16 them everything I would need for reinvesting back
17 into the farm. The farm is kind of just a
18 self-sustaining thing, and it's something that I do
19 for myself and my family, so...

20 MR. VILLA: Is that your sole source of
21 income for you and your family?

22 MR. HASSELL: No, I have a pension from my
23 retirement, but it does account for about a third of
24 what I need to operate. So...

25 MR. VILLA: A third of your family's

1 income.

2 MR. HASSELL: Yeah, absolutely.

3 MR. VILLA: Okay. I appreciate you sharing
4 that information with us.

5 Let me just follow up briefly about your
6 concerns or what you heard on the radio. And I think
7 you said that you thought it was uncommon or that it
8 was unusual, this is sort of an organized group?

9 MR. HASSELL: Um-hum.

10 MR. VILLA: So if you heard the judge say
11 that the charges in this case -- some of the charges
12 were conspiracy, so the judge will give you
13 instructions on the law of conspiracy, but if you're
14 trying to decide whether one individual defendant was
15 a part of a conspiracy that's charged in this case,
16 would you having thoughts about them being an
17 organized group affect your ability to decide, based
18 on the evidence presented in court, whether one
19 defendant was a member of the conspiracy or not?

20 MR. HASSELL: Well, I don't know if it
21 would affect my decisions or my ability to make that
22 decision. But I mean, it's a little difficult to --
23 I mean, these guys called them a syndicate. It would
24 be a little bit difficult to say, well, you know,
25 it's possible for one person to do something in a

1 group and not be involved with other people. So I
2 could listen to the merits of each individual and
3 probably make a decision based on that.

4 MR. VILLA: So if the group of individuals
5 you heard evidence were members of the syndicate
6 conspired to commit a crime and one or two of the
7 defendants are accused of conspiring to commit that
8 crime, could you set aside your thoughts?

9 MR. HASSELL: I mean, if the evidence
10 showed that these guys weren't involved in whatever
11 the issue was, then, yeah, I'm sure I could.

12 THE COURT: Thank you, Mr. Villa.

13 Mr. Jewkes.

14 MR. JEWKES: Mr. Hassell, you are located
15 in Dona Ana County, Radium Springs?

16 MR. HASSELL: I'm very close. Easy for me
17 to get down here. Doesn't cost the Court much.

18 MR. JEWKES: Is the farm in Sierra or Dona
19 Ana?

20 MR. HASSELL: Dona Ana.

21 THE COURT: Thank you, Mr. Jewkes.

22 Ms. Jacks, do you have anything?

23 Thank you, Mr. Hassell. Appreciate it.

24 Stand closer to the microphone. Remind me
25 of your name.

1 MR. EIFFERT: Dana Eiffert.

2 THE COURT: What juror are you?

3 MR. EIFFERT: 48.

4 THE COURT: So is it Mr. Eiffert? Is that
5 the way you say your name?

6 MR. EIFFERT: Yes, sir.

7 THE COURT: What have you read or heard
8 about this case?

9 MR. EIFFERT: Just, I'm sure, the
10 run-of-the-mill stuff on social media. They had the
11 great big article yesterday in the Journal.

12 THE COURT: Did you read it?

13 MR. EIFFERT: Oh, yeah.

14 THE COURT: From beginning to end?

15 MR. EIFFERT: Oh, yeah. I didn't know if
16 it was going to be a good thing or a bad thing, but I
17 didn't think me being informed would necessarily be a
18 bad thing. I don't know.

19 THE COURT: Okay. You said social media.
20 Can you -- other than the article that came out
21 yesterday, can you recall other instances in which
22 you --

23 MR. EIFFERT: TV. There were a couple of
24 things on Channel 7 over the weekend about the
25 upcoming trial.

1 THE COURT: Channel 7?

2 MR. EIFFERT: Yeah.

3 THE COURT: Anything else that you recall
4 reading or hearing about this case?

5 MR. EIFFERT: No. So fairly limited.

6 THE COURT: So it's mostly this weekend, a
7 couple of television stories on Channel 7, and then
8 the Albuquerque Journal?

9 MR. EIFFERT: Yeah.

10 THE COURT: And you don't recall reading or
11 hearing any other things before this weekend?

12 MR. EIFFERT: Not specifically about the
13 Sindicato.

14 THE COURT: Let's talk about what you
15 recall reading or hearing. What do you recall
16 reading or hearing about this case?

17 MR. EIFFERT: I remember the shackling
18 business, and how you let that go. And then the stun
19 things, that you decided against those. And the
20 other 60 people, I believe, would have been involved
21 in this case, other defendants, have already pleaded
22 guilty. I know the one guy was the leader of the
23 gang. Baca, they said he was. And he was the one
24 that wanted the one guy killed, and I think also the
25 ex-sheriff Darren White, he was out to get him.

1 That's the highlights.

2 THE COURT: Okay. All right. Any other
3 details that kind of stick out in your mind this
4 morning?

5 MR. EIFFERT: Not about what I've heard or
6 read.

7 THE COURT: Is there anything about what
8 you heard or read about this case that you think
9 would keep you from being fair and impartial both to
10 the Government and the four defendants in this case?

11 MR. EIFFERT: In a general sense, all over
12 the news media, New Mexico is in a crime crisis. My
13 best friend was murdered in his own driveway, stabbed
14 to death a year ago. I'm sure you heard about it.
15 The guy in Four Hills. That was my life-long best
16 friend. I'm not inclined to go easy on criminals. I
17 don't like them. Don't like their crimes.

18 THE COURT: Right. Well, you know, nobody
19 has to like criminals and nobody has to like crimes.
20 That's the reason we make illegal certain things and
21 the reason that we have jails and prisons. But -- so
22 you have a right to have those opinions and views.
23 But I guess the question this morning is: Could you
24 put that, thoughts about crimes and criminals, out of
25 your head and just focus on the Government's case

1 against these four defendants? And could you be fair
2 and impartial to both sides in this case?

3 MR. EIFFERT: Honestly, no.

4 THE COURT: Okay. And when you say that,
5 do you think you would be biased in favor of the
6 Government against the defendant?

7 MR. EIFFERT: Absolutely. Yes, sir.

8 THE COURT: You have a prejudice against
9 the defendants?

10 MR. EIFFERT: Sorry.

11 THE COURT: Okay. All right. Well, thank
12 you, Mr. Eiffert.

13 Mr. Beck?

14 MR. BECK: Mr. Eiffert, I just want to make
15 sure we're clear. Thank you for sharing that. Will
16 you be able to follow the judge's instructions to the
17 best of your ability if you're picked for a jury in
18 this case?

19 MR. EIFFERT: That's really hard for me to
20 say.

21 MR. BECK: And why is that hard for you to
22 say?

23 MR. EIFFERT: Because that would come down
24 to what's happening right now, what's being said. I
25 can't promise that I'm going to be impartial.

1 MR. BECK: So it sounds to me like,
2 standing here -- and I appreciate you being candid
3 here -- it sounds to me, standing here today, that
4 you can't commit right now to -- per the judge's
5 instruction, to be impartial.

6 MR. EIFFERT: I mean, I know that's what
7 I'm here for and I have all respect for the judge.
8 And I would try to follow your instructions. Now,
9 whether that would be 100 percent a reality, I can't
10 say that.

11 MR. BECK: Thank you for sharing.

12 THE COURT: Thank you, Mr. Beck.

13 Ms. Duncan.

14 MS. DUNCAN: I don't have anything.

15 THE COURT: Ms. Bhalla?

16 MS. BHALLA: No, Your Honor.

17 THE COURT: Mr. Villa? Ms. Jacks?

18 MS. JACKS: I just have a few questions.

19 Good morning, sir.

20 MR. EIFFERT: Good morning.

21 MS. JACKS: You said you read the paper,
22 the article in the Albuquerque Journal yesterday?

23 MR. EIFFERT: Yes.

24 MS. JACKS: When you saw it, did you
25 realize that was the case that you were summoned for

1 jury service for?

2 MR. EIFFERT: Oh, yeah.

3 MS. JACKS: And you said you read it?

4 MR. EIFFERT: Yes.

5 MS. JACKS: And you went ahead and read the
6 article anyway?

7 MR. EIFFERT: Absolutely.

8 MS. JACKS: Did you recall that you were
9 instructed by the judge to not read the media in the
10 questionnaire that you filled out?

11 MR. EIFFERT: I did not.

12 MS. JACKS: Okay. Did you read that part
13 of the judge's instructions?

14 MR. EIFFERT: If it was in there, I
15 probably read it. Did it register right at the
16 moment when I saw the article? No.

17 MS. JACKS: Why did you read the article?

18 MR. EIFFERT: To know what was going on.

19 MS. JACKS: Okay. Thank you.

20 THE COURT: Thank you, Ms. Jacks.

21 Mr. Eiffert, thank you so much.

22 MR. EIFFERT: Thank you, sir.

23 THE COURT: Why don't you stand right here
24 next to the microphone. Can you remind me of your
25 name?

1 MR. BILLINGS: Eric Billings.

2 THE COURT: Mr. Billings. And what juror
3 number are you?

4 MR. BILLINGS: 40.

5 THE COURT: Number 40. I'll find that on
6 here. All right, Mr. Billings. How are you doing
7 this morning?

8 MR. BILLINGS: Good, sir.

9 THE COURT: All right. What do you recall
10 reading and hearing about this case?

11 MR. BILLINGS: There was an ongoing FBI
12 case for the last three years, and it involved four
13 individuals that belonged to a gang. There might
14 have been cartel ties along with that. There was
15 letters sent out to wardens or a certain individual
16 who knew about what was going to happen and what was
17 going on and stuff. It was just tidbits of pieces of
18 information, things you get.

19 THE COURT: Do you recall when you got
20 these tidbits of information?

21 MR. BILLINGS: Last week and this weekend.

22 THE COURT: Okay. What sources did you get
23 this information from?

24 MR. BILLINGS: Just the news feeds on your
25 smart phone. Those things pop up and you see them.

1 THE COURT: So it was mostly stuff on your
2 phone?

3 MR. BILLINGS: Yes, sir.

4 THE COURT: You don't recall anything else,
5 any other source, other than your phone?

6 MR. BILLINGS: No, sir.

7 THE COURT: And were they just -- is all
8 you were seeing was just little blurbs that came up?

9 MR. BILLINGS: Usually you swipe over and
10 you can read the whole article, you know. Some of
11 the higher newsworthy items you touch and you pretty
12 much see and give them a read, and then you hear
13 something, and I heard something.

14 THE COURT: You heard something this
15 morning?

16 MR. BILLINGS: Coming in here this morning
17 after reading those, then I kind of knew.

18 THE COURT: Oh, you knew what you were
19 coming in for?

20 MR. BILLINGS: Yeah.

21 THE COURT: When you saw those little
22 things come up on your phone, did you press them and
23 then read the articles?

24 MR. BILLINGS: Yes, yeah.

25 THE COURT: Did you read the articles

1 entirely?

2 MR. BILLINGS: Not the whole article, no.

3 THE COURT: So the limit of your
4 information is what you've learned this weekend? Is
5 that fair to say?

6 MR. BILLINGS: Yes.

7 THE COURT: Did you know anything about
8 this case before this weekend?

9 MR. BILLINGS: No.

10 THE COURT: Okay. All right. It sounds
11 like everything that you know you read, because you
12 were looking at it on your phone, not hearing
13 anything. Am I correct?

14 MR. BILLINGS: Correct.

15 THE COURT: Okay. Can you tell me what you
16 remember reading about this case?

17 MR. BILLINGS: Just that it involved four
18 individuals. The FBI -- that they were investigating
19 for over a few years. And there was -- I don't know
20 how to word it -- I think the word is like something
21 sent off to you, like a hit list sent out on a
22 certain individual, and something like that. They
23 were able to gain evidence proving that a letter had
24 gone out to one of the individuals that were being
25 charged, and that was basically the most that I got

1 out of it.

2 THE COURT: And did any particular detail
3 or part of the story stick in your mind the most or
4 come to the forefront?

5 MR. BILLINGS: No. It was a gang, a
6 leader. He was the one that sent it out.

7 THE COURT: Given what you have read about
8 this case and learned about it, do you think that
9 there is anything that's in your head right at the
10 moment that would keep you from being fair and
11 impartial to the parties in this case?

12 MR. BILLINGS: Possibly. I mean --

13 THE COURT: Tell me how that would play
14 out. When you say that information possibly could
15 keep you from being fair and impartial, how do you
16 think it would play out?

17 MR. BILLINGS: To me, if someone is
18 pursuing -- as the FBI finding evidence on people who
19 are incarcerated, it leads me to have more bias
20 towards the FBI than the individuals, because of
21 just -- it would lead me to that, to be more biased
22 to the FBI than the individuals, to be fair.

23 THE COURT: You've heard people talking
24 about the presumption of innocence, the fact that
25 these four men are presumed innocent. Do you think,

1 given what you read about the case, would you not be
2 able to presume that they are innocent?

3 MR. BILLINGS: No.

4 THE COURT: I probably didn't ask that a
5 good way. So you're telling me that you could not
6 presume them innocent?

7 MR. BILLINGS: No.

8 THE COURT: And so you would be, I think
9 what you said, biased toward the FBI right at this
10 moment, even though there has not been any evidence
11 you would think the FBI -- you'd be on their side or
12 you would be thinking that they have concluded that
13 these men are guilty and that would influence your
14 thinking?

15 MR. BILLINGS: Yes, sir.

16 THE COURT: All right. Mr. Beck.

17 MR. BECK: Thank you for sharing,
18 Mr. Billings. Will you be able to -- if you're
19 selected for the jury, will you be able to follow the
20 instructions that the judge gives you throughout this
21 case?

22 MR. BILLINGS: Yes.

23 MR. BECK: And if one of those instructions
24 is that you're to judge these four men's guilt based
25 only on the evidence presented here in court and not

1 based on anything you may have read or preconceived
2 notions you may have had, can you follow that
3 instruction from the judge?

4 MR. BILLINGS: Yes.

5 MR. BECK: Now, if the judge instructs you
6 that the defendants, these four men, are to be
7 presumed innocent until the United States proves with
8 that evidence their guilt beyond a reasonable doubt,
9 can you follow that instruction?

10 MR. BILLINGS: Yeah.

11 MR. BECK: And I think you said earlier
12 that you'd have a hard time presuming these men
13 innocent, and I just want to make sure that we're
14 clear on that. If the judge instructs you that as a
15 juror you must presume them innocent, it's their
16 constitutional right, is that an instruction you can
17 follow?

18 MR. BILLINGS: To me, yes and no, because
19 they are incarcerated once already, and it happened
20 while they're incarcerated. Then their rights -- to
21 me, it feels like they shouldn't have that right. I
22 mean, that's just a personal feeling, but if they are
23 already incarcerated, they should have no rights as a
24 citizen, if they've already been tried once.

25 MR. BECK: And I just want to make sure I'm

1 clear. Thank you for being candid. It sounds to me
2 like because you believe that these men have been
3 incarcerated before, that you believe that based on
4 what you've read, it sounds to me like you believe
5 that they should not have the right to be presumed
6 innocent; is that true?

7 MR. BILLINGS: Yes.

8 MR. BECK: And so even though you may be
9 able to follow many of the judge's instructions, it
10 sounds to me like based on what you've read -- and
11 I'm not -- I don't mean to be disrespectful, but it
12 sounds to me like you wouldn't be able to follow the
13 judge's instruction to presume these four men
14 innocent?

15 MR. BILLINGS: Yes.

16 MR. BECK: It sounds to me like you
17 probably wouldn't be a good juror to sit on this
18 case; is that right?

19 MR. BILLINGS: That would be fair, yes.

20 MR. BECK: Nothing further.

21 THE COURT: Thank you, Mr. Beck.

22 MS. DUNCAN: I have nothing.

23 THE COURT: Ms. Bhalla?

24 MS. BHALLA: Just quickly here, when you
25 said that you've got the news on your phone, did it

1 come in like from CNN, or it was just news?

2 MR. BILLINGS: Just news.

3 MS. BHALLA: Breaking news?

4 MR. BILLINGS: Yes.

5 MS. BHALLA: That's all.

6 THE COURT: Ms. Duncan?

7 MS. DUNCAN: Did you discuss what you had
8 read with any of the other jurors this morning?

9 MR. BILLINGS: No, I did not.

10 MS. DUNCAN: Thank you.

11 THE COURT: Mr. Villa?

12 MR. VILLA: Nothing.

13 THE COURT: Ms. Jacks?

14 MS. JACKS: No, Your Honor.

15 THE COURT: Thank you, Mr. Billings. I
16 appreciate it.

17 Just stand right here. We'll get you on
18 here. Would you remind me your name?

19 MR. RODRIGUEZ: Pedro Rodriguez.

20 THE COURT: What number are you?

21 MR. RODRIGUEZ: 30, I believe.

22 THE COURT: 30?

23 MR. RODRIGUEZ: 3, 0.

24 THE COURT: All right. And Mr. Rodriguez,
25 what have you heard or read about this case?

1 MR. RODRIGUEZ: My wife was briefly
2 appointed to this case, I believe, and then she
3 realized that there was a conflict of interest, so
4 she was DQ'd immediately. She even knows -- she
5 didn't talk any specifics about the case. She did
6 talk about the defense and how much resources they
7 have to gather and plan, and just mundane stuff about
8 practice.

9 THE COURT: Your wife is Angelica Hall?

10 MR. RODRIGUEZ: Yes, sir.

11 THE COURT: And do you recall anything
12 specifically she said about this case?

13 MR. RODRIGUEZ: I recall that one of the
14 staff of the jail was fearing for his life, and that
15 he had put extra security for his own safety. The
16 only thing I recall was financing stuff, like getting
17 vouchers in. The other thing was experts, scheduling
18 software experts, and they were trying to get experts
19 to line up for interviews, and all these things. I
20 mean, she was briefly appointed to the case, and I
21 think she was DQ'd.

22 THE COURT: Other than from your wife, have
23 you read or heard anything about this case?

24 MR. RODRIGUEZ: No.

25 THE COURT: And I understand the mechanics

1 of, like, getting experts and CJA vouchers and those
2 sort of things. Do you know anything -- did she talk
3 to you anything about the facts or evidence or
4 anything like that?

5 MR. RODRIGUEZ: She did not mention
6 specifics about the case in particular. No
7 witnesses, no defendant names, or anything like that.
8 She would talk about the attorneys that might
9 potentially be in the case within the defense
10 community. I think John Samore is one of them. I
11 have to disclose to the Court and the parties
12 involved that he was at our wedding. I think the
13 other was Amy Sirignano. I know her on a personal
14 level. I did some short paralegal legal work for
15 her, but that was actually before she left the state
16 and came back from Texas again. So it was a while
17 back.

18 THE COURT: So it was before she left the
19 state?

20 MR. RODRIGUEZ: Right.

21 THE COURT: Is there anything about what
22 you have heard from your wife about this case that
23 you think would keep you from being fair and
24 impartial to both sides in this case?

25 MR. RODRIGUEZ: No, not in particular. I

1 mean, like you said, this is a duty for all of us
2 citizens, so I'll do my best to maintain partiality.

3 THE COURT: And you said, "Not in
4 particular." How about at a general level? Is there
5 anything that you think would keep you from being
6 fair and impartial to the parties in this case?

7 MR. RODRIGUEZ: I think I heard from a few
8 people here that, you know, they took away the death
9 penalty charge, and I personally just don't believe
10 in it. So...

11 THE COURT: You're correct. There is no
12 death -- this isn't a death penalty case.

13 MR. RODRIGUEZ: That was my only concern.

14 THE COURT: So given that this isn't a
15 death penalty case, do you see any reason why you
16 couldn't be fair and impartial to both sides in this
17 case?

18 MR. RODRIGUEZ: No.

19 THE COURT: All right. Mr. Beck.

20 MR. BECK: Mr. Rodriguez.

21 MR. RODRIGUEZ: Yes.

22 MR. BECK: Do you know to whom your wife,
23 Ms. Hall, was appointed?

24 MR. RODRIGUEZ: It was Michael Davis, and I
25 think he also got DQ'd.

1 MR. BECK: So she was working with Michael
2 Davis?

3 MR. RODRIGUEZ: Yes. And from all I heard,
4 he got DQ'd because he must have found out he had a
5 conflict of interest.

6 MR. BECK: Did he mention any other
7 attorney's name? Did she mention any other
8 attorney's name that was working --

9 MR. RODRIGUEZ: No, just the ones that I
10 mentioned just now.

11 MR. BECK: It sounds like your wife is a
12 criminal defense lawyer --

13 MR. RODRIGUEZ: Yes, sir.

14 MR. BECK: -- on the CJA panel. Do you
15 think with your wife being a defense lawyer that
16 slants your bias or your prejudice in any way towards
17 the defense or the prosecution?

18 MR. RODRIGUEZ: I mean, I have friends,
19 mutual friends, that also are prosecutors. So there
20 is always a discussion on many levels on that. So,
21 you know, I take both sides into consideration.

22 MR. BECK: Do you know, was your wife
23 working with Mr. Davis, or was she going to replace
24 Mr. Davis?

25 MR. RODRIGUEZ: No, she was -- I think she

1 was second chair. She was research, writing, and
2 witnesses.

3 MR. BECK: On this case at some point?

4 MR. RODRIGUEZ: Yeah. I can't give you an
5 exact time line because I didn't keep track of it
6 until I got the letter in the mail. But I think it
7 must have been like a month's time, maybe a little
8 more.

9 MR. BECK: For a month or more, your
10 wife --

11 MR. RODRIGUEZ: Yes.

12 MR. BECK: But was she -- she was actually
13 paid for the work on this case?

14 MR. RODRIGUEZ: I'm not sure. That's
15 something I don't know.

16 MR. BECK: And as far as you recall, she
17 didn't mention anything to you about the facts of the
18 case and --

19 MR. RODRIGUEZ: No, not in particular. I
20 also have to disclose that I volunteer so I go to the
21 CLEs and to their gatherings afterwards. Attorneys
22 do talk, but as far as I've been in that situation
23 where -- we did not discuss or I did not hear any
24 specific facts, particularly the defendants and that
25 sort of thing.

1 THE COURT: Thank you, Mr. Beck.

2 Ms. Duncan.

3 MS. DUNCAN: Nothing, Your Honor.

4 THE COURT: Ms. Bhalla.

5 MS. BHALLA: No, Your Honor.

6 THE COURT: How about you, Mr. Villa?

7 MR. VILLA: No.

8 THE COURT: Ms. Jacks?

9 MS. JACKS: No, Your Honor.

10 THE COURT: Thank you, Mr. Rodriguez.

11 (The following proceedings were held in
12 open court.)

13 THE COURT: All right. Let me ask anyone
14 else that's been sitting there, has any member of the
15 panel heard or read anything about the case that we
16 haven't already discussed here at the bench?

17 All right. I know a lot of you haven't
18 gotten to participate here, but I do think we need to
19 probably take a break. I'm going to have to be very
20 careful with Ms. Bean, my court reporter. Even
21 though we haven't gotten to a lot of you, I do think
22 that we had better take a break, because we've been
23 up here at the bench a while.

24 We're going to be taking the first break.
25 The trial hasn't started, but we are taking kind of

1 the first break during the voir dire. And I want to
2 tell you a few things that are especially important,
3 and I'll be reminding you as we go throughout the day
4 on these. You'll probably get tired of me saying
5 them. It shows how important they are.

6 Until the trial is completed -- it hasn't
7 even started -- you're not to discuss the case with
8 anyone, whether it's members of your family, people
9 involved in the trial, or anyone else. And that
10 includes your fellow jurors. So when you leave here,
11 talk about something else, like who is going to win
12 the Super Bowl this week, or how cool the judge is,
13 or something like that. But don't talk about this
14 case. Okay? We really don't need you to do that.

15 If anyone approaches you and tries to
16 discuss the trial with you, please let me know about
17 it immediately. Also, you must not read or listen to
18 any news reports of the trial. Don't walk out of
19 here and get on the internet or your phone and do
20 research for purposes of this case. Don't do that,
21 please.

22 And finally, remember that you must not
23 talk about anything with any person who is at the
24 table. I know we haven't gotten to the point of
25 introducing them, but take a look at them right now

1 and make sure that you kind of look at them, and then
2 don't talk to them. So if you see them in the hall
3 or in the elevator or something like that and they
4 don't look at you and they don't speak to you,
5 they're not being rude. They're doing what I told
6 them to do, and that's not have contact with the
7 jurors. So just respect that, and they're just doing
8 what they're told.

9 If you need to speak with me about
10 anything, simply give a note to one of the court
11 security officers, the men and women that have the
12 blue jackets on, or Ms. Wild or Ms. Standridge here,
13 and they'll get it to me. Again, I'll try not to
14 repeat these every time we take a break, but do keep
15 them in mind because they're very important as we try
16 to get this trial together.

17 Everyone has to leave the courtroom. So
18 it's not that you can stay. Everyone has to leave
19 the courtroom, and we'll let you know when to come
20 back in. So when you're done walking around a little
21 bit or using the restroom, line up outside. Don't
22 come in until we come get you. When you come back
23 in, please go back to the seat you're in now.
24 Because of the seating chart, that's very important,
25 because it will help me and help the lawyers in a

1 little bit in asking you questions.

2 All right. We'll be in recess for about 15
3 minutes. All rise.

4 (The venire panel left the courtroom.)

5 THE COURT: All right. Do we have all the
6 jurors out? Anything we need to discuss before we
7 take our leave. All right. See y'all in about 15
8 minutes.

9 (The Court stood in recess.)

10 THE COURT: All right. Do I have all the
11 defendants? All right. We're going to start
12 bringing the jury in. All rise.

13 (The venire panel entered the courtroom).

14 THE COURT: Well, you're already one of my
15 favorite venires. You all came back. Thank you very
16 much. Everyone be seated.

17 Let me just pick up, in case anybody was
18 thinking about it over the break. Has any member of
19 the panel heard or read anything about the case that
20 we haven't already discussed at the bench?

21 All right. Ms. Moore. If you'd come up
22 here, I'm going to have the lawyers come up here.
23 There is a question or two off your questionnaire I
24 want to ask you about.

25 (The following proceedings were held at the

1 bench.)

2 THE COURT: In your questionnaire, you had
3 a lot of stuff you had seen about the SNM Gang. You
4 had a lot of detail about --

5 MS. MOORE: I'm a former teacher. I write
6 a lot. Yeah, I'm a note-taker.

7 THE COURT: That's fine, but you haven't
8 heard or read anything about this case; is that
9 right?

10 MS. MOORE: Not this case. I do watch the
11 news every day because we're retired and I'm
12 educated. I watch the news.

13 THE COURT: But this particular case?

14 MS. MOORE: No.

15 THE COURT: You've got a lot of information
16 about SNM. You did have a lot of things that you
17 remembered. Is there anything about what you
18 remember that you put in your questionnaire that you
19 think would keep you from being fair and impartial to
20 the parties in this case?

21 MS. MOORE: I can't remember exactly what I
22 wrote. I just -- I think it's a horrific thing that
23 occurred. I remember when those murders were. I
24 think it was late '80s, you know. A lot of people
25 were killed. Then I moved away. I came back 16

1 years ago. I live in rural New Mexico. I'm aware of
2 gangs. I don't know these particular men. I have
3 seen, you know, whatever you see on TV.

4 THE COURT: When you say "back in the
5 '80s," are you talking about the prison riot?

6 MS. MOORE: Yes, where people were
7 murdered.

8 THE COURT: You might hear that a little
9 bit in this trial, but it's not really what this
10 trial is about. The lawyers can correct me if they
11 think I'm not stating it correctly.

12 MS. MOORE: All right.

13 THE COURT: It's kind of hard to live in
14 New Mexico and not hear about gangs from time to
15 time, but is there anything you know in general about
16 the prison riot or gangs in New Mexico that you --
17 you think you could be fair and impartial?

18 MS. MOORE: I would try to be.

19 THE COURT: Is there anything in your mind
20 right at the moment that you think would keep you --

21 MS. MOORE: I've been thinking about this
22 since November. I'm sad to know this occurs, but --
23 and I worry about the poor people that are going, "I
24 couldn't help but join up with a gang because I
25 thought I was going to get killed."

1 THE COURT: Sure.

2 MS. MOORE: And I think, What would I do?
3 And then everybody says, Well, they're in jail
4 because they were a bad guy. But just because you're
5 a bad guy doesn't make you a worse guy. I'm on the
6 line, and I'm a -- but I wrote maybe too much. I
7 wanted to be clear.

8 THE COURT: These four men over there,
9 could you start this case by presuming them
10 innocent --

11 MS. MOORE: Oh, yes.

12 THE COURT: -- the Government has a burden
13 of proving beyond a reasonable doubt everything in
14 their case?

15 MS. MOORE: Yes.

16 THE COURT: Do you think right at the
17 moment could you start --

18 MS. MOORE: I would.

19 THE COURT: And you'd presume them
20 innocent?

21 MS. MOORE: Yes, because --

22 THE COURT: They haven't done anything yet?

23 MS. MOORE: I know they've done something
24 before, because they were in prison.

25 THE COURT: Okay. But other than that?

1 MS. MOORE: Yes. Sorry.

2 THE COURT: At least for that, you would
3 wait to hear the evidence?

4 A. Oh, yeah, yeah. Because I have lived
5 overseas and I am proud to be a citizen. I really
6 don't want to do six weeks of my life --

7 THE COURT: I understand.

8 MS. MOORE: -- but I will if I need to.
9 Because once again, I put myself in those shoes.
10 What if no one serves ever? Well, hello, you know,
11 so...

12 THE COURT: So you think --

13 MS. MOORE: I'm trying be honest and fair.

14 THE COURT: You think you could be fair and
15 impartial?

16 MS. MOORE: I would.

17 THE COURT: Mr. Beck?

18 MS. MOORE: That's all I can say is, I'll
19 try.

20 THE COURT: Mr. Beck is first.

21 MR. BECK: Ms. Moore, thank you for sharing
22 that, and thank you for being candid. We just need
23 to know with a little bit of certainty, will you be
24 able to follow the judge's instructions if he gives
25 them and you're picked on the jury in this case?

1 MS. MOORE: I will try.

2 MR. BECK: And if those instructions
3 include that these four men, as you said, are
4 presumed innocent until proven guilty beyond a
5 reasonable doubt --

6 MS. MOORE: Of this particular crime?

7 MR. BECK: That's right.

8 MS. MOORE: That's what we're judging here.

9 MR. BECK: That's right. Would you be able
10 to set aside what you may think about these men's
11 past and just judge them in this case based on the
12 evidence presented in this courtroom?

13 MS. MOORE: I would have to, because that's
14 what we're discussing here.

15 MR. BECK: And you would be able to do that
16 and follow that instruction faithfully?

17 MS. MOORE: I'll try. That's --

18 MR. BECK: I think that's all I have.

19 THE COURT: Ms. Duncan, do you have
20 questions?

21 MS. DUNCAN: I do. Ms. Moore, the judge
22 was talking about the presumption of evidence and
23 whether you'd accord it to the defendant, and you
24 said you'd try.

25 MS. MOORE: Of course.

1 MS. DUNCAN: Do you have any hesitation
2 about being able to presume defendants innocent in
3 this case?

4 MS. MOORE: I don't know what you mean by
5 being able. Yes, I am aware that from what I know
6 about this case, I understand this occurred inside
7 the prison. And if it did, that meant everybody in
8 there was in there for a reason. And of course,
9 that's in my mind. If they did something, if they
10 say they did something they really didn't do, maybe
11 they didn't do it.

12 MS. DUNCAN: So do you think when you're
13 considering the evidence against these defendants,
14 would it weigh on your mind that they had been in
15 prison before for something?

16 MS. MOORE: I don't understand the word
17 "weigh." I would know it, but I would try to just
18 look at this particular case.

19 MS. DUNCAN: And so I guess my question to
20 you is: You said that you could try. Can you 100
21 percent guarantee us that you will be able to presume
22 these men innocent of the charges against them?

23 MS. MOORE: Sure, yeah. That's their right
24 as citizens.

25 MS. DUNCAN: I guess one of my questions

1 is: The difference between their right as a citizen
2 and a rule to follow in a particular case. So my
3 question to you is -- and I know --

4 MS. MOORE: I can't tell you till I hear
5 everything. I will do my best, is all I can tell
6 you.

7 MS. DUNCAN: Do you have concerns, though,
8 based on what you've read or understand about this
9 case?

10 MS. MOORE: I've not read very much.

11 MS. DUNCAN: How about what you understand
12 about or believe about these men having been in
13 prison before?

14 MS. MOORE: The only example I can give --
15 and I'm showing my age here -- I read The Innocent
16 Man. That poor guy was in prison for wrong -- it's a
17 totally different case, but we can't -- we've got to,
18 you know, presume innocent until proven guilty, you
19 know. I don't know these four people.

20 MS. DUNCAN: And thank you. I don't mean
21 to push you. I'm trying to understand what you're
22 saying.

23 MS. MOORE: I mean, you can't help but --
24 I've been around for 64 years. I have a past. I do
25 know, you know -- I know about gangs. I was raised

1 in a little small town, predominantly Hispanic. I
2 know about young boys and macho and, you know, but --

3 MS. DUNCAN: I understand.

4 MS. MOORE: It's hard to -- I'll just do my
5 best, is all I can tell you.

6 MS. DUNCAN: Sounds like you have a
7 lifetime of experiences that form your opinions about
8 things; is that correct?

9 MS. MOORE: Well, like I told the judge, I
10 did live abroad for a while. I traveled extensively.
11 I like to think of myself as open-minded. I have gay
12 friends, I have Hispanic friends.

13 MS. DUNCAN: Thank you.

14 MS. MOORE: I don't know --

15 MS. DUNCAN: No, you're answering my
16 questions.

17 MS. MOORE: I just can't promise, but you
18 can't help but carry your past experiences, and I
19 must admit I hate tattoos. I don't like piercings,
20 but I mean, you know --

21 MS. DUNCAN: So if you were to hear
22 evidence that the defendants in this case are
23 tattooed --

24 MS. MOORE: I'm sure they are, yeah.

25 MS. DUNCAN: -- would that influence how

1 you view them or the evidence in this case?

2 MS. MOORE: I hope I would just look at the
3 evidence, because I also know people that are good
4 people with tattoos. It's kind of the in thing now,
5 and it's big in gangs, I know.

6 MS. DUNCAN: So I know on your
7 questionnaire, you talked about --

8 MS. MOORE: Too prolific I guess.

9 MS. DUNCAN: We love it when jurors are
10 prolific.

11 MS. MOORE: It's the school teacher in me.

12 MS. DUNCAN: You wrote specifically about
13 the tattoos and seeing the initials that reminded you
14 of some articles that you had read?

15 MS. MOORE: Yeah.

16 MS. DUNCAN: Can you tell us more about
17 that, what you read?

18 MS. MOORE: It's probably a documentary
19 type of thing, and I can't even remember the name,
20 but there are things that -- I'm a big PBS watcher.
21 I don't think it was on PBS, but yeah, there are
22 documentaries on what's going on.

23 And when we lived in Texas, I toured the
24 Hartsville prison. You know, a vivid memory I have
25 in England was the prisons of -- I don't recollect

1 where they -- I'll never forget my son, "Oh, my gosh,
2 they killed that man because he was a Catholic." You
3 know, life experiences about prisons and gangs.

4 MS. DUNCAN: And do you recall there's
5 something that stood out to you about the tattoos?

6 MS. MOORE: Well, it's just if I'm walking
7 down a street and someone is a male, tattooed, and
8 they look weird, I'll walk on the other side if I'm
9 alone. I'm aware of my surroundings.

10 MS. DUNCAN: So when you see someone that
11 has tattoos, it causes you concern?

12 MS. MOORE: Yeah, and I have friends that
13 are noncriminals that have tons of tattoos. I
14 just -- a lot of criminals do have them.

15 MS. DUNCAN: Thank you. No further
16 questions.

17 THE COURT: Thank you, Ms. Duncan.
18 Ms. Bhalla?

19 MS. BHALLA: Given that you've read the
20 articles that you've read and experience with the
21 gangs you've seen, the tattoos --

22 MS. MOORE: Not direct. I'm just a reader.
23 I'm a teacher. I read all the time.

24 MS. BHALLA: Right. Are you going to be
25 able to put all that stuff aside and just take the

1 case as it comes without bringing your personal
2 experiences into it?

3 MS. MOORE: I've never met with a gang
4 member one-on-one, so I hardly call that personal.
5 But yes, I have read some of the stuff, and I don't
6 know, I am sure I'll go, "Hum," you know.

7 MS. BHALLA: Does your knowledge give you
8 hesitation that you will be able to put aside -- do
9 you think you'll be able to forget what you've read,
10 so to speak, and judge the facts based on what's
11 presented before you in the next six weeks?

12 MS. MOORE: All I can do is try. My real
13 good friend that lives in Bosque Farms -- her son is
14 an undercover officer. The first time I met him, oh,
15 my God, covered in tattoos. You ought to see him in
16 disguise. He is a wonderful man. The tattoo -- if
17 that's the only thing, I don't care what they look
18 like. Is that what you're asking me?

19 MS. BHALLA: No. It's just you said sort
20 of -- you said you read a lot.

21 MS. MOORE: I'm a reader. I have two
22 degrees. I like to read.

23 MS. BHALLA: That's good. There is nothing
24 wrong that -- I'm saying, you indicated that you
25 you've had life experience.

1 MS. MOORE: I'm old.

2 MS. BHALLA: And what I'm asking you is if
3 you're able to put that stuff aside and forget what
4 you've read and forget what you've learned, and when
5 you process the evidence in this case, when you
6 analyze the evidence in this case --

7 MS. MOORE: I don't know. I could just say
8 I can try. I think it's impossible to forget your
9 life experiences.

10 MS. BHALLA: Okay.

11 THE COURT: All right. Thank you, Ms.
12 Bhalla.

13 Mr. Villa.

14 MR. VILLA: Yes.

15 MS. MOORE: Okay. Sorry. I feel like --

16 THE COURT: I didn't cut you off, did I,
17 Ms. Bhalla?

18 MS. BHALLA: No, Your Honor.

19 THE COURT: Mr. Villa.

20 MR. VILLA: Good afternoon. You talked a
21 little bit about your feelings on tattoos and you
22 talked a little bit now about gangs and things like
23 that. So let me ask you a question. If you saw
24 evidence that the individuals in this case had
25 tattoos --

1 MS. MOORE: Yeah.

2 MR. VILLA: -- a lot of tattoos and heard
3 evidence they might be part of the gangs and you hear
4 in evidence that other parts of this gang committed a
5 crime --

6 MS. MOORE: Yes.

7 MR. VILLA: -- and the Government is asking
8 you to decide whether they're guilty of being part of
9 a conspiracy, does the fact that they might be gang
10 members who might have a lot of tattoos -- would that
11 influence your decision-making about whether they're
12 guilty of this conspiracy?

13 MS. MOORE: Possibly, yeah. I mean, are
14 they admitting they are part of the gang?

15 MR. VILLA: Well, I'm just suggesting if
16 you hear evidence that they might be part of the
17 gang --

18 MS. MOORE: Yeah.

19 MR. VILLA: You hear or see evidence that
20 they have tattoos --

21 MS. MOORE: That's a separate issue.

22 MR. VILLA: Another part?

23 MS. MOORE: But what is it -- if they have
24 that on them, that means they're part of a gang.

25 MR. VILLA: Okay. So I'm going to ask you

1 if you hear another group of the gang, not these
2 people, men, commit a crime, you're asked to decide
3 whether these men were part of that crime --

4 MS. MOORE: Yes.

5 MR. VILLA: -- does the fact that they may
6 be part of the gang, maybe they have tattoos -- does
7 that influence your decision making, whether they're
8 guilty?

9 MS. MOORE: I think I answered that
10 question.

11 MR. VILLA: If you did, I'm sorry --

12 MS. MOORE: I'm just trying to phrase it
13 another way. Because I think if you join up in a
14 gang, you have all these pressures. Maybe they were
15 pressured into doing this for fear of their life and
16 they didn't do this whatever because -- I don't
17 know -- snitches and all that stuff. I'm just
18 totally -- I'm willing to be open to believing them
19 if they really didn't do it. But they're going to
20 have to prove to me they really didn't do it.

21 MR. VILLA: So the judge is going to
22 instruct on the law, and he's going to instruct that
23 it's the Government's burden to prove that they did
24 do it; not the defendants' to prove that they didn't.

25 MS. MOORE: All right.

1 MR. VILLA: Maybe if you hear evidence that
2 they were part of the gang, they should have the
3 burden of having to prove to you that they didn't do
4 it, the defendants?

5 MS. MOORE: Well, I don't know. I guess if
6 I was a defendant, I would want to prove I didn't do
7 it. But then, really, you know, if you're a snitch
8 in jail, man, they're tough on you, so I might not be
9 able to prove I didn't do it without, you know,
10 repercussions while I'm serving my time.

11 MR. VILLA: The question put in your
12 shoes -- the shoes of the defendant, putting your
13 shoes in the shoes of a jury and you're on the jury
14 and you're being instructed that it's the
15 Government's burden to prove the defendant is guilty,
16 it's not the defendants' burden to prove that they're
17 not guilty, would the fact that they might be in a
18 gang or have tattoos affect your ability to do that
19 and listen to the instructions?

20 MS. MOORE: Okay, what you're telling me is
21 I'm going to listen to the Government that says,
22 "Blah, blah, blah did this," and they're going to
23 have to prove to me that he did do that and I won't
24 worry about the guys? Yeah, I can listen to that.

25 MR. VILLA: That's all my questions.

1 THE COURT: Thank you, Mr. Villa.

2 Mr. Jewkes, did you have something?

3 MS. JEWKES: No, I just wanted
4 clarification of her name and number.

5 MR. VILLA: Number 1. I didn't have to
6 write it down. It was an easy number.

7 THE COURT: Thank you, Ms. Moore.
8 Appreciate it.

9 (The following proceedings were held in
10 open court.)

11 THE COURT: Anybody sitting there, any
12 member of the panel think they've heard or read
13 anything about the case that we haven't discussed
14 here at the bench?

15 All right. I'm now going to ask the
16 counsel, first for the Government, to introduce
17 themselves and counsel associated in the trial, as
18 well as all of the witnesses who will testify in the
19 Government's presentation of its case in chief. So
20 everyone listen very carefully as the Government
21 attorneys introduce themselves and the witnesses they
22 intend to call in the trial.

23 Mr. Beck.

24 MR. BECK: Good morning, everyone. My name
25 is Matt Beck, and with me at counsel table is

1 Assistant U.S. Attorney Maria Y. Armijo and Assistant
2 U.S. Attorney Randy M. Castellano. Also with us at
3 counsel table is the case agent for this case,
4 Special Agent Bryan Acee from the Federal Bureau of
5 Investigation.

6 I'm going to read to you the names of
7 witnesses we anticipate may testify in this trial.
8 There are a lot of names, so just bear with me, and
9 keep in your mind if one of them sounds familiar to
10 you. Can everyone hear me okay?

11 Gerald Archuleta, also known as Styx.
12 Jerry Armenta, also known as Kreater. Ron Beich;
13 David Calbert, also known as Spider. Billy Cordova,
14 also known as Little Shadow. Eric Duran, also known
15 as Crazo. Michael Lowe; Todd Lucas, M.D.; Gregg
16 Marcantel. Timothy Martinez, also known as Red.
17 Robert Martinez, also known as Baby Rob. Roy
18 Martinez, also known as Shadow. Jerry Montoya, also
19 known as Plaz. Mario Montoya, also known as Poo Poo.
20 Mario Rodriguez, also known as Blue. Julian Romero.
21 Javier Rubio, also known as BB. Dwayne Santistevan.
22 Lupe Urquizo, also known as Marijuano. Bachir
23 Zoghbi, M.D. Theodore Chavez, Joseph Sainato,
24 Tiffany Smith, Juan Apodaca, Daniel Blanco, Jorge
25 Borjas, Christopher Cupit, Martin Espinoza, Robert

1 Fierro, Ronald Martin, James Mulheron, William Price,
2 Jerry Roark, Phillip Romero, Sergio Sapien, Jack
3 Vigil, Jonathon Butler, Chad Casson, Antonio
4 Palomares, Norman Rhoades, Gary Tate, Richard
5 Williamson. Hannah Kastenbaum, M.D. Ani Taylor, Jay
6 Nance. Manuel Jacob Armijo, also known as Big Jake.
7 Julie Black. Ramon Chavez, Robert Cordova, Dr. Cruz.
8 LuElen Cunyus, Sammy Griego, also known as Sammy G.
9 Robert Lovato, also known as Boo-Boo. Johnny Lujan,
10 Joe Martinez, Frederico Munoz, also known as Playboy.
11 Mark Myers, Richard Norman, Victor Olivas, M.D.,
12 Shamon Pacheco. William Roach, Efran Sandoval.
13 Patrick Howie, James Moore, Katie Brusuelas, Thomas
14 Neale, Nancy Stemo, Sergio Munoz, Joey Aranda, Javier
15 Archuleta, Adino Castillo, Richard Enriquez, Richard
16 Jaramillo, Keith Miller, Shane Murphy, Charles
17 Navarro, Esteban Vargas, Roger Cain, Cindy Wood,
18 Randy Larcher, Carol Shirreffs, Nathan Lerner, James
19 B. Moore, J. Velasco, J. Garcia, K. Heras, Javier
20 Archuleta. And that's it. Thank you.

21 THE COURT: Thank you, Mr. Beck. Let me
22 ask everyone on the venire, do any of the jurors know
23 any of the people that Mr. Beck introduced or listed
24 as a possible witness in this case? And let me add a
25 few things here. Why don't y'all, too, make your way

1 up here so I can talk to you a little bit about them.
2 They're from the United States Attorney's Office.
3 The United States Attorney's Office is currently
4 being run by a man named James Tierney. The
5 president has appointed a new U.S. Attorney. His
6 name is John Anderson. He hasn't been confirmed yet.
7 So I'll ask you broadly about any sort of connection
8 with the U.S. Attorney's Office, as well.

9 And Mr. Bryan Acee, at the end of the
10 table, is from the FBI, so I might ask you about any
11 connections you have with the FBI. But do any of the
12 jurors know any of the persons that Mr. Beck
13 introduced, the additional names I may have given,
14 come on up here, that I have given, had any business
15 dealings with the U.S. Attorney's Office, with the
16 FBI, been represented by any of the lawyers that are
17 sitting here, who may have been in firms, been
18 parties to any cases with them, had any sort of
19 similar relationship, business connection with the
20 U.S. Attorney's Office or the FBI or any of the
21 people that are sitting at that table?

22 All right. Let me see counsel up here.

23 (The following proceedings were held at the
24 bench.)

25 THE COURT: How are you doing today? Would

1 you remind me your name?

2 MS. PADILLA: Cindy Padilla.

3 THE COURT: What juror number are you?

4 MS. PADILLA: 3.

5 THE COURT: All right, Ms. Padilla. How
6 are you doing?

7 MS. PADILLA: Fine.

8 THE COURT: Who do you know?

9 MS. PADILLA: Patrick Howie.

10 THE COURT: Patrick Howie at the detention
11 center? You know him because you worked there, as
12 well?

13 MS. PADILLA: Yes.

14 THE COURT: Do you socialize with
15 Mr. Howie?

16 MS. PADILLA: No. I have a conversation
17 with him once in a while.

18 THE COURT: And what is your opinion --
19 what are your thoughts about Mr. Howie?

20 MS. PADILLA: I think he's a good -- he's a
21 good person. I like him.

22 THE COURT: Now, if he takes the stand, if
23 the Government calls him as a witness, would you,
24 because of your relationship with him, believe what
25 he says or would you listen to him and judge him as a

1 witness just like any witness in the case?

2 MS. PADILLA: That's a hard question. I
3 would believe what he said.

4 THE COURT: You'd probably believe what he
5 says? Even if the defendants are saying don't
6 believe him, do you think you'd still believe him
7 just because of your relationship with him?

8 MS. PADILLA: Yes.

9 THE COURT: Given that he's going to be a
10 Government witness, do you think you can be fair and
11 impartial in this case?

12 MS. PADILLA: Yes, I think so.

13 THE COURT: Mr. Beck.

14 MR. BECK: Your Honor, thank you.

15 THE COURT: All right. Ms. Duncan.

16 MS. DUNCAN: Thank you, Your Honor.

17 Ms. Padilla, do you currently work at the
18 detention center, or in the past?

19 MS. PADILLA: I worked there, and I
20 still -- every so often I have talked to them.

21 MS. DUNCAN: Do you have contact with staff
22 at the detention center, other than Lieutenant Howie?

23 MS. PADILLA: Yes.

24 MS. DUNCAN: How often do you have contact
25 with people at the detention center?

1 MS. PADILLA: I'm a real good friend with
2 one of the secretaries there, and then I know the
3 Houser, the one in charge.

4 MS. DUNCAN: So that based on your
5 relationship with Lieutenant Howie, you would tend to
6 believe what he has to say; is that correct?

7 MS. PADILLA: Yes.

8 MS. DUNCAN: So you would presume him to be
9 truthful? Is that what you're saying?

10 MS. PADILLA: I think so, yes.

11 MS. DUNCAN: More so than another witness
12 you didn't know who showed up to testify?

13 MS. PADILLA: Yeah, because I know him,
14 yes.

15 MS. DUNCAN: I have nothing further, Your
16 Honor.

17 THE COURT: All right. Thank you, Ms.
18 Duncan.

19 Let me go in order here. Ms. Bhalla.

20 MS. BHALLA: I'm sorry, I didn't hear the
21 very beginning. You said that you worked with
22 Officer Howie. Where do you work now?

23 MS. PADILLA: I work at the county clerk's
24 office.

25 MS. BHALLA: At the county clerk's office.

1 And how long did you work with Officer Howie?

2 MS. PADILLA: Well, I worked at the
3 sheriff's department, and he was there at the
4 sheriff's department, and then I worked at the
5 detention center, and he was at the detention center.

6 MS. BHALLA: So give me an approximation of
7 what time frame you worked with him.

8 MS. PADILLA: Well, I started working there
9 in 1982. Let me see. I think it was '84. Whenever
10 he started working there, because he came after I did
11 at the sheriff's department.

12 MS. BHALLA: Okay.

13 MS. PADILLA: So probably about maybe three
14 years. And then I worked with him at the detention
15 center for four years.

16 MS. BHALLA: And the four years you worked
17 in the detention center, when was that?

18 MS. PADILLA: That was in 2003. No, 2002
19 to 2006.

20 MS. BHALLA: Okay. That's all I have.

21 THE COURT: Thank you, Ms. Bhalla.

22 Mr. Villa.

23 MR. VILLA: Ms. Padilla, thank you for
24 talking to us. When was the last time you spoke to
25 Mr. Howie?

1 MS. PADILLA: Probably about a month ago,
2 maybe.

3 MR. VILLA: And how often do you speak to
4 him?

5 MS. PADILLA: It just depends, because,
6 see, my job at the county clerk's office is, I go to
7 the county commission meetings and I do minutes, and
8 a lot of times what the commissioners approve, I have
9 to get signatures, so I have to call out to ask how I
10 can get ahold of the signatures.

11 MR. VILLA: Did you ever socialize with
12 Mr. Howie?

13 MS. PADILLA: No.

14 MR. VILLA: Did you ever discuss what he
15 does over there at the jail?

16 MS. PADILLA: Oh, I know what he does.
17 He's a lieutenant. I work with him.

18 MR. VILLA: Does he talk to you about --

19 MS. PADILLA: No.

20 MR. VILLA: -- the job he does or things
21 that are going on, things like that?

22 MS. PADILLA: No.

23 MR. VILLA: Thank you.

24 THE COURT: Thank you, Mr. Villa.

25 Mr. Jewkes.

1 MR. JEWKES: Ms. Padilla, Number 3;
2 correct?

3 THE COURT: Correct.

4 MR. JEWKES: No questions.

5 THE COURT: No questions?

6 MR. JEWKES: I just wanted to clarify the
7 number.

8 THE COURT: Thank you, Ms. Padilla.

9 MR. BECK: Your Honor, may I ask her some
10 questions? I'm sorry.

11 THE COURT: You may.

12 MR. BECK: Ms. Padilla, the judge is going
13 to give you instructions in this case. Will you be
14 able to follow the judge's instructions if you're a
15 juror on this case?

16 MS. PADILLA: Yes, I think so.

17 MR. BECK: And if one of those instructions
18 tells you how much weight to give to certain people's
19 testimony, including Mr. Howie's, will you be able to
20 follow his instruction and give that weight to that
21 witness' testimony?

22 MS. PADILLA: I think so, yes.

23 THE COURT: Thank you, Mr. Beck.

24 Any of the defendants?

25 MS. DUNCAN: Yes, Your Honor.

1 THE COURT: Ms. Duncan.

2 MS. DUNCAN: You said that you would tend
3 to credit Lieutenant Howie's testimony more than
4 another witness; correct?

5 MS. PADILLA: Not more than any other, but
6 I mean, I just trust him because I know him. I mean,
7 I'm not saying that, but I just know him more on a
8 professional level than anything else.

9 MS. DUNCAN: Sure. You're basing your
10 experience with Lieutenant Howie -- you find him
11 credible?

12 MS. PADILLA: Correct.

13 MS. DUNCAN: You find him to be a truthful
14 person; is that correct?

15 MS. PADILLA: Correct.

16 MS. DUNCAN: So your experience, having
17 worked with him, would determine how you perceive him
18 as a witness; correct?

19 MS. PADILLA: Yes.

20 THE COURT: Ms. Bhalla, do you have
21 anything further? Did we lose Mr. Villa? Do you
22 have anything further?

23 MR. VILLA: No, Your Honor.

24 THE COURT: Mr. Jewkes, anything further?

25 All right. Thank you, Ms. Padilla. I

1 appreciate it.

2 If you'll stand right there in front of
3 that microphone.

4 MR. BOCK: Yes, sir.

5 THE COURT: Remind me of your name.

6 Justus --

7 MR. BOCK: Bock.

8 THE COURT: And you're juror number?

9 MR. BOCK: 6.

10 THE COURT: Juror number 6? All right.

11 Mr. Bock, off that witness list or the attorney
12 general's list that Mr. Beck introduced, who do you
13 know off of that?

14 MR. BOCK: Gregg Marcantel.

15 THE COURT: You know Gregg Marcantel?

16 MR. BOCK: Yes.

17 THE COURT: And how do you know Gregg
18 Marcantel?

19 MR. BOCK: He was my baseball coach, and me
20 and his stepson are really good friends. I went to
21 his house a couple of times.

22 THE COURT: When was the last time you saw
23 Gregg Marcantel?

24 MR. BOCK: He's no longer with his mom, so
25 probably 10 years at least.

1 THE COURT: Now, the allegations in this
2 case, as you surmise from what I described, are that
3 one or more of -- well, one of the defendants
4 conspired to have Mr. Marcantel killed. How are you
5 going to feel about that? Are you going to instantly
6 be over here with the prosecution, with the
7 Government on that?

8 MR. BOCK: No, sir.

9 THE COURT: Do you think, even though Mr.
10 Marcantel is the alleged victim in this case, you
11 could be fair and impartial to both sides in this
12 case?

13 MR. BOCK: Yes, sir.

14 THE COURT: All right. Mr. Beck.

15 MR. BECK: If Mr. Marcantel testifies in
16 this case, if the judge instructs you that you're to
17 give certain weight to a witness' testimony, can you
18 follow the judge's instruction and give
19 Mr. Marcantel's testimony the weight you're
20 instructed?

21 MR. BOCK: Yes.

22 MR. BECK: Can you generally follow the
23 judge's instruction if you're picked as a juror in
24 this case?

25 MR. BOCK: Yes.

1 MR. BECK: If the judge instructs you that
2 you're to decide these four defendants' guilt based
3 only on the evidence presented in the courtroom and
4 not any predetermined bias or prejudices, can you
5 follow that instruction to determine their guilt from
6 the evidence in the case?

7 MR. BOCK: Yes.

8 THE COURT: All right. Thank you,
9 Mr. Beck.

10 Ms. Duncan.

11 MS. DUNCAN: Thank you, Your Honor.

12 So you said that Mr. Marcantel was your
13 baseball coach?

14 MR. BOCK: Yes.

15 MS. DUNCAN: For how long was he your
16 baseball coach?

17 MR. BOCK: At least three years, and then
18 me and his stepson were best friends all the way
19 through high school.

20 MS. DUNCAN: When was the last time you saw
21 his stepson?

22 MR. BOCK: He went off to the military, so
23 I have seen him since then -- probably five years. I
24 haven't really seen him since.

25 MS. DUNCAN: Have you talked to his stepson

1 in those five years or followed him by email?

2 MR. BOCK: No.

3 MS. DUNCAN: And what was your impression
4 or what is your impression of Mr. Marcantel based on
5 your relationship with him?

6 MR. BOCK: I have respect for him. He was
7 a decent guy. No reason to think otherwise.

8 MS. DUNCAN: So if he was testifying in
9 court, would you tend to credit his testimony,
10 believe what he has to say?

11 MR. BOCK: No.

12 MS. DUNCAN: Why not?

13 MR. BOCK: I think everybody should give a
14 point of view and I should be able to decide from --
15 after I hear everything; not just take the testimony
16 and decide from there.

17 MS. DUNCAN: So if you had Mr. Marcantel
18 and a witness you've never met before, would you be
19 more or less likely to credit Mr. Marcantel's
20 testimony over that new witness?

21 MR. BOCK: I wouldn't credit it any more.

22 MS. DUNCAN: Okay. So do you think that
23 you could put aside what you know about him in
24 evaluating his testimony?

25 MR. BOCK: Yes.

1 MS. DUNCAN: And you understand that the
2 judge instructed that one of the allegations was that
3 there was a conspiracy to murder Mr. Marcantel?

4 MR. BOCK: Um-hum.

5 MS. DUNCAN: How would you be able to put
6 aside your prior relationship with him and his
7 stepson in considering such a conspiracy?

8 MR. BOCK: I believe I would be able to if
9 ordered to.

10 MS. DUNCAN: Can you tell me how? How
11 would you do that, do you think?

12 MR. BOCK: I would just listen to everybody
13 testify and try to stay impersonal of everything.

14 MS. DUNCAN: And I'm trying to ask you
15 because you have these relationships with Mr.
16 Marcantel. Sometimes when we have a relationship, we
17 would be a terrible juror in a trial. To be fair,
18 I'm trying to understand your relationship with him,
19 if your feelings for him or his stepson would color
20 how you view the evidence and whether you could
21 presume the defendants who are charged with trying to
22 kill him and view them fairly.

23 MR. BOCK: Yes.

24 MS. DUNCAN: Do you think you can?

25 MR. BOCK: I believe I can, yes.

1 MS. DUNCAN: Do you have any concerns about
2 your ability to do that?

3 MR. BOCK: No.

4 MS. DUNCAN: I have nothing further.

5 THE COURT: Thank you, Ms. Duncan.

6 Ms. Bhalla, do you have questions of
7 Mr. Bock?

8 MS. BHALLA: How old were you when he
9 coached your team?

10 MR. BOCK: Probably 13.

11 MS. BHALLA: 13 to 16?

12 MR. BOCK: Probably.

13 MS. BHALLA: How many times do you think
14 you were over at his house?

15 MR. BOCK: Probably six, seven times.

16 MS. BHALLA: Six or seven times. And does
17 that include when you were friends with his stepson?

18 MR. BOCK: Yes.

19 MS. BHALLA: So you only saw him, outside
20 of baseball, six or seven times?

21 MR. BOCK: Yes.

22 MS. BHALLA: How often did you have
23 baseball practice?

24 MR. BOCK: We went every night except for
25 weekends.

1 MS. BHALLA: Every night except for
2 weekends. Did you travel for baseball games?
3 MR. BOCK: No.
4 MS. BHALLA: They were just --
5 MR. BOCK: In-town games.
6 MS. BHALLA: That's all I have.
7 THE COURT: Thank you, Ms. Bhalla.
8 Mr. Villa, do you have questions?
9 MR. VILLA: No, Your Honor.
10 THE COURT: All right. Ms. Jacks.
11 MS. JACKS: You look very young.
12 MR. BOCK: 25.
13 MS. JACKS: So it's been just about nine
14 years since Marcantel was your best friend?
15 MR. BOCK: About, yes.
16 MS. JACKS: And as your baseball coach, you
17 had contact with him five days a week?
18 MR. BOCK: Yes, ma'am.
19 MS. JACKS: For a period of three or four
20 years?
21 MR. BOCK: Yes.
22 MS. JACKS: Did you like him?
23 MR. BOCK: As a person, yes.
24 MS. JACKS: Okay. And have you ever had
25 anybody that -- you knew him pretty well; right?

1 MR. BOCK: Um-hum.

2 MS. JACKS: Is there anybody that you knew
3 as well or better than Marcantel that was named as a
4 victim of an alleged crime?

5 MR. BOCK: No.

6 MS. JACKS: How did it make you feel when
7 you heard that he was the alleged victim of a murder
8 conspiracy?

9 MR. BOCK: I always knew he was in the
10 field of law. So even growing up, he was always
11 concerned about that happening. So I was kind of
12 shocked that it happened, but when I heard it was --

13 MS. JACKS: I want to follow up on that.
14 He had a criminal profile when you knew him?

15 MR. BOCK: Yes.

16 MS. JACKS: And he expressed to you, when
17 you knew him, concerns about his personal safety?

18 MR. BOCK: Yes.

19 MS. JACKS: What sort of conversations did
20 you have with him, just generally?

21 MR. BOCK: Just not to go outside whenever
22 it was dark; to stay inside; and if we heard
23 anything, just let him know.

24 MS. JACKS: He told you not to go
25 outside --

1 MR. BOCK: Yes.

2 MS. JACKS: -- if it was dark?

3 MR. BOCK: Yes.

4 MS. JACKS: And to stay inside?

5 MR. BOCK: Yes.

6 MS. JACKS: And contact him if there was a
7 problem?

8 MR. BOCK: Yes.

9 MS. JACKS: How is that -- what was the
10 context of those discussions? Like was it when you
11 were at his house with his son?

12 MR. BOCK: Yes.

13 MS. JACKS: So he exercised a certain
14 degree of vigilance around his home?

15 MR. BOCK: Yes.

16 MS. JACKS: Because he thought that he was
17 likely to be the target of some sort of criminal
18 offense?

19 MR. BOCK: He thought it was possible, yes.

20 MS. JACKS: Because of his profession?

21 MR. BOCK: Yes.

22 MS. JACKS: Is it fair to say -- so when
23 you heard about the allegations in this case, did it
24 make you think about he might have been right all
25 along?

1 MR. BOCK: There was a possibility, but I
2 also have cousins in law enforcement that worry about
3 the same thing.

4 MS. JACKS: And did you ever discuss with
5 him who in particular he thought might have posed
6 this threat?

7 MR. BOCK: No. As a kid, it was just what
8 it was.

9 MS. JACKS: I don't know the circumstances
10 in which you -- did you go to other people's houses
11 who discussed similar concerns for their safety? Was
12 that a normal, standard thing? Or just his house?

13 MR. BOCK: Just his house.

14 MS. JACKS: That's all.

15 THE COURT: Thank you, Ms. Jacks. I
16 appreciate it.

17 If you'll stand right there, could you give
18 me your name and number again?

19 MS. HOURNBuckle: It's Rebecca Hournbuckle,
20 and I'm number 23.

21 THE COURT: 23. All right. Ms.
22 Hournbuckle; right?

23 MS. HOURNBuckle: Right.

24 THE COURT: Is that the way you say it?

25 MS. HOURNBuckle: You said it right.

1 THE COURT: Mr. Beck introduced a lot of
2 people and also some witnesses. Who do you know off
3 his list?

4 MS. HOURNBUCKLE: I know two people with
5 names that are the same. Now, whether they are the
6 same people, I don't know. Norman Rose. I went to
7 high school with him in Washer, Texas.

8 THE COURT: What's his name?

9 MS. HOURNBUCKLE: Norman Rose.

10 THE COURT: Norman Rose?

11 MS. HOURNBUCKLE: R-O-S-E.

12 MR. BECK: I must have mispronounced that.
13 It's Rhoades.

14 THE COURT: So you don't know a Norman
15 Rhoades. Who is the other person?

16 MS. HOURNBUCKLE: Cindy Woods, but I knew
17 her in Mobile, like, back in the '70s.

18 THE COURT: Do you know what she's doing
19 now, these days?

20 MS. HOURNBUCKLE: I have no clue.

21 THE COURT: Last time you knew, she was in
22 Mobile?

23 MS. HOURNBUCKLE: That was the last time.
24 I didn't want to withhold anything.

25 THE COURT: Do you know where she grew up

1 or anything like that?

2 MS. HOURNBUCKLE: She was married at the
3 time and seemed to be living a lawful life. I don't
4 know anything bad about her.

5 THE COURT: The last you knew, she was in
6 Mobile, Alabama, and you don't know what happened to
7 her?

8 MS. HOURNBUCKLE: Yeah.

9 THE COURT: When was that?

10 MS. HOURNBUCKLE: The early '70s.

11 THE COURT: Do you have any knowledge of a
12 Cindy Woods?

13 MS. HOURNBUCKLE: It's Wood.

14 THE COURT: Cindy Wood?

15 MS. HOURNBUCKLE: She would have been
16 probably mid 20s, maybe.

17 THE COURT: In the '70s?

18 MS. HOURNBUCKLE: Like in '72.

19 THE COURT: So she'd be probably -- I don't
20 know, what would that put her?

21 MS. HOURNBUCKLE: I'm 67, and she'd be
22 about my age.

23 THE COURT: You're 67?

24 MS. HOURNBUCKLE: I'm 67.

25 THE COURT: 67, so she'd be about --

1 MR. BECK: I'm confident that's not the
2 same.

3 THE COURT: Your person is a lot younger
4 than that.

5 MR. BECK: Yes.

6 MS. HOURNBUCKLE: Okay.

7 THE COURT: Anybody else you think you know
8 of?

9 MS. HOURNBUCKLE: No. I haven't been in
10 New Mexico all that long. Just since 2009.

11 THE COURT: Mr. Beck, do you have any
12 questions?

13 MR. BECK: No questions.

14 THE COURT: How about you, Ms. Duncan?

15 MS. DUNCAN: No questions.

16 THE COURT: Ms. Bhalla, any questions?

17 MS. BHALLA: No, Your Honor.

18 THE COURT: Mr. Villa?

19 MR. VILLA: No, Your Honor.

20 MS. JACKS: No, Your Honor.

21 THE COURT: Thank you. Appreciate it.

22 MR. OLDKNOW: Mark Oldknow.

23 THE COURT: Who do you know?

24 MR. OLDKNOW: There was one name that
25 struck me, a bunch of common names, Mark Myers.

1 THE COURT: Okay.

2 MR. OLDKNOW: I don't know if it's the same
3 one. There is a Mark Coltrin Myers out of Santa Fe.
4 He'd be in his mid 40s. I could imagine him being
5 involved in such things.

6 THE COURT: What does he do; do you know?

7 MR. OLDKNOW: The last I saw him, which was
8 about four years ago, he was bartending, I believe.

9 THE COURT: All right. And what is it
10 about him that makes you think he might have some
11 involvement in this case?

12 MR. OLDKNOW: History, his shady
13 involvement. He's done jail time. Long history of
14 making bad decisions.

15 THE COURT: Okay. Is this your Mark Myers?

16 MR. BECK: That is not the same Mark Myers.

17 THE COURT: What does yours do?

18 MR. BECK: He was working for Corrections
19 as the chief of staff.

20 MR. OLDKNOW: Not even close.

21 THE COURT: Anybody else you know?

22 MR. OLDKNOW: No, I don't think so.

23 THE COURT: How about any questions,
24 Mr. Beck?

25 MR. BECK: No.

1 THE COURT: Ms. Duncan? Mr. Villa.

2 MS. DUNCAN: No, Your Honor.

3 THE COURT: Ms. Bhalla.

4 MS. BHALLA: No, Your Honor.

5 THE COURT: Ms. Jacks? All right.

6 MR. BECK: Lost him anyway.

7 THE COURT: Would you give me your name and
8 number again?

9 MS. WHITEHEAD: Yes, juror number 24, and
10 I'm Sandra Whitehead.

11 THE COURT: All right, Ms. Whitehead. Who
12 off Mr. Beck's list or introduction did you think you
13 knew?

14 MS. WHITEHEAD: The only name I recognized
15 was Norman Rhoades.

16 THE COURT: Okay. And what do you know
17 about Norman Rhoades?

18 MS. WHITEHEAD: The Norman Rhoades I know
19 is with the New Mexico State Police, and he's
20 attended some brotherhood conferences, get-togethers,
21 and I have been at those meetings. I mean, I don't
22 know him personally. I just know of him.

23 THE COURT: Know of him?

24 MS. WHITEHEAD: Yes.

25 THE COURT: When you say brotherhood

1 meetings, what are those?

2 MS. WHITEHEAD: My significant other is a
3 retired state police officer.

4 THE COURT: Okay.

5 MS. WHITEHEAD: And they would get together
6 as a brotherhood group once a year, and we would
7 attend those.

8 THE COURT: So is this Norman Rhoades
9 likely the same?

10 MR. BECK: I think it likely is the same
11 Norman Rhoades.

12 THE COURT: So you know his name. Do you
13 know --

14 MS. WHITEHEAD: I know his name. I know
15 briefly what he does, but I mean, there is no --

16 THE COURT: What do you know that he does?

17 MS. WHITEHEAD: That he investigates, that
18 he looks into things that are not right.

19 THE COURT: Okay. So he's an investigator
20 for the State Police?

21 MS. WHITEHEAD: Yeah.

22 THE COURT: As to -- have you ever been
23 introduced to him?

24 MS. WHITEHEAD: Yes, I do know him.

25 THE COURT: And have you had a meal with

1 him, socialized with him, or anything like that?

2 MS. WHITEHEAD: Briefly. You know, I've
3 sat and visited for a little bit, and then I get up
4 and leave.

5 THE COURT: At these brotherhood --

6 MS. WHITEHEAD: At these brotherhood
7 meetings, yes, sir.

8 THE COURT: Do they eat at these
9 brotherhood meetings?

10 MS. WHITEHEAD: Yes, sir.

11 THE COURT: Do you stay and eat with them?

12 MS. WHITEHEAD: No.

13 THE COURT: Has he ever been to your home?

14 MS. WHITEHEAD: No, sir.

15 THE COURT: Or have you been to his home?

16 MS. WHITEHEAD: No, sir.

17 THE COURT: Does your husband or
18 significant other -- does he spend a lot of time --

19 MS. WHITEHEAD: No, sir.

20 THE COURT: -- with Mr. Rhoades?

21 MS. WHITEHEAD: No, sir.

22 THE COURT: Is there a particular
23 relationship --

24 MS. WHITEHEAD: No, sir.

25 THE COURT: -- between your significant

1 other and Mr. Rhoades?

2 MS. WHITEHEAD: No, sir.

3 THE COURT: If Mr. Rhoades takes the stand
4 here, are you going to believe him more than another
5 witness?

6 MS. WHITEHEAD: No, sir.

7 THE COURT: Okay. Do you have any sort of
8 thoughts about his credibility?

9 MS. WHITEHEAD: I think he's pretty
10 credible, but I would listen. I listen to the facts,
11 I listen to what is said. But I do think that he's
12 pretty credible.

13 THE COURT: Okay. Now, I don't know what
14 the defendants are going to do, but if they decide to
15 attack his credibility, are you going to say, "Well,
16 I thought he was credible before this trial started,
17 so I'm going to continue to think he's credible even
18 though the defendants say he's not"? Is that going
19 to be a problem for you?

20 MS. WHITEHEAD: I don't think that would be
21 a problem, no, sir.

22 THE COURT: You'd listen to their attacks?

23 MS. WHITEHEAD: Yes, sir.

24 THE COURT: If they make them -- and I
25 don't know if they're going to make them -- but if

1 they make attacks on his credibility, do you think
2 you could be completely neutral on it?

3 MS. WHITEHEAD: I could be completely
4 neutral. I could use my best judgment, yes, sir.

5 THE COURT: And do you think there is
6 anything about your relationship with Mr. Rhoades
7 that would keep you from being fair and impartial to
8 all the parties in this case?

9 MS. WHITEHEAD: No, sir.

10 THE COURT: Mr. Beck.

11 MR. BECK: If you were picked as a juror in
12 this case, will you be able to follow the judge's
13 instructions about listening?

14 MS. WHITEHEAD: Yes, sir.

15 MR. BECK: And if the judge instructs you
16 to set aside any biases or prejudices you have, will
17 you be able to follow that instruction?

18 MS. WHITEHEAD: Yes.

19 MR. BECK: And if the judge instructs that
20 you're to give certain weight to certain people's
21 evidence, can you follow that instruction, given your
22 relationship with Mr. Rhoades?

23 MS. WHITEHEAD: Yes, sir, I can.

24 THE COURT: Thank you, Mr. Beck.

25 Ms. Duncan? Ms. Duncan.

1 MS. DUNCAN: Good afternoon. So the fact
2 that Mr. Rhoades is a law enforcement officer and
3 your significant other is a law enforcement officer,
4 would you be more likely to credit another law
5 enforcement officer's testimony than any other kind
6 of witness?

7 MS. WHITEHEAD: I don't think so.

8 MS. DUNCAN: That's all I have.

9 THE COURT: Thank you, Ms. Duncan.

10 Ms. Bhalla.

11 MS. BHALLA: You said that you wouldn't
12 necessarily credit law enforcement more so than you
13 would another witness' testimony. And why is that?

14 MS. WHITEHEAD: Well, I would like to
15 listen to the facts. I would like to take into
16 consideration -- I mean, sometimes law enforcement do
17 not always tell the truth. I would feel that, so I
18 would feel that I could use my best judgment. I
19 mean, I would like to lean towards the law
20 enforcement, but you know, sometimes they don't
21 always tell the truth.

22 MS. BHALLA: When you say you would like to
23 lean towards law enforcement, does that mean you want
24 to be able to give more weight to their testimony?

25 MS. WHITEHEAD: Sure, yes.

1 MS. BHALLA: So you would like to be able
2 to find them more credible?

3 MS. WHITEHEAD: I would like to be able to,
4 yes, not necessarily that, you know -- I mean, I
5 wouldn't strongly just say because they're a law
6 enforcement officer, that that's the way I'm leaning.

7 MS. BHALLA: Okay. Do you think that your
8 personal experience with law enforcement and having
9 law enforcement in your family is going to sort of
10 put you a little more on believing the law
11 enforcement side than necessarily believing -- like,
12 if you had to choose between a person in prison's
13 testimony and a law enforcement officer's testimony
14 are you going to go ahead and give more weight to the
15 law enforcement testimony, given their background?

16 MS. WHITEHEAD: I don't think so. I don't
17 think so.

18 THE COURT: Thank you, Ms. Bhalla.

19 Mr. Villa? Do you have questions?

20 MR. VILLA: I'll let Ms. Jacks.

21 THE COURT: Yeah, Ms. Jacks.

22 MS. JACKS: I have a few questions. I'm
23 not clear. What is the brotherhood organization that
24 you're talking about?

25 MS. WHITEHEAD: It's just a gathering

1 that -- they get together. The State Police have a
2 brotherhood where they get together all the retired
3 state police officers and they just kind of have like
4 a reunion.

5 MS. JACKS: Okay. So you said your
6 significant other is a retired state police officer?

7 MS. WHITEHEAD: He's no longer my
8 significant other, but he was, yeah.

9 MS. JACKS: Okay. How often would this
10 brotherhood get together?

11 MS. WHITEHEAD: Annually.

12 MS. JACKS: Once a year?

13 MS. WHITEHEAD: Yes.

14 MS. JACKS: And you'd see Norman Rhoades
15 there on those occasions?

16 MS. WHITEHEAD: I would see him not
17 necessarily all the time. We'd sit and visit. I
18 would say "Hi" and greet him. A lot of times I just
19 basically go off to my room and stay in my room. I'm
20 one of these people that don't like to socialize a
21 lot. So I wouldn't, you know, but I would know these
22 people, I would be introduced, and I've known them
23 for many years.

24 MS. JACKS: When is the last time you saw
25 him?

1 MS. WHITEHEAD: Last year, last April.

2 MS. JACKS: And if he walked in this
3 courtroom, you'd recognize him?

4 MS. WHITEHEAD: Yes, ma'am.

5 MS. JACKS: Would you feel like greeting
6 him, like waving and saying "Hello"?

7 MS. WHITEHEAD: Well, I would, but I
8 probably wouldn't, you know what I mean, at the time.

9 MS. JACKS: But you feel like it might be a
10 little impolite not to say "Hi"?

11 MS. WHITEHEAD: I can honestly tell you he
12 probably doesn't know who I am. So let's put it that
13 way. You know what I mean?

14 MS. JACKS: You said you would tend to
15 believe he's credible. Is that based on the fact
16 that he's a retired law enforcement officer?

17 MS. WHITEHEAD: Probably.

18 MS. JACKS: Or --

19 MS. WHITEHEAD: Just a law enforcement
20 officer, just, you know, you would think, like I said
21 earlier, that most of them are credible.

22 MS. JACKS: At least hope so?

23 MS. WHITEHEAD: Hope so, right.

24 MS. JACKS: Is there anything in addition
25 to the fact that he has status as a law enforcement

1 officer that would make you tend to believe him?

2 MS. WHITEHEAD: No.

3 MS. JACKS: Okay. Have you had any
4 personal --

5 MS. WHITEHEAD: No.

6 MS. JACKS: -- dealings with him --

7 MS. WHITEHEAD: No.

8 MS. JACKS: -- where he's done things that
9 showed himself to be credible?

10 MS. WHITEHEAD: No.

11 MS. JACKS: Okay. Thank you.

12 A. You're welcome.

13 THE COURT: Thank you, Ms. Jacks. Mr.
14 Villa?

15 MR. VILLA: No, Your Honor, thank you.

16 THE COURT: Thank you, Ms. Whitehead. I
17 appreciate it.

18 (The following proceedings were held in
19 open court.)

20 THE COURT: Anyone else that's out there,
21 thinking of Mr. Beck's list, introductions? Any of
22 the jurors know any of the people that are sitting at
23 this table, at the Government's table, or that
24 Mr. Beck listed as a witness? Had any business
25 dealings with him, been represented by the U.S.

1 Attorney's Office? Anybody sitting at this table,
2 the acting U.S. Attorney, the incoming U.S. Attorney,
3 any of the firms they've been a part of? Mr. John
4 Anderson from the U.S. Attorney General's office? He
5 may get confirmed at any time. He's coming from
6 Holland & Hart, a law firm up in Santa Fe. Been
7 party to any of the cases with the U.S. Attorney's
8 Office?

9 Any of these people sitting over here had
10 any relationship or business connection with anybody
11 that Mr. Beck introduced, any names I've thrown in
12 from the U.S. Attorney's Office?

13 All right. Let me now ask counsel for the
14 defendants to introduce themselves and to indicate
15 any witnesses that the defendant may choose to call.

16 Before they do that, I'm going to give a
17 little bit of a schedule. I know we're going long,
18 but we're going to go to 1:30, and then we'll break
19 for lunch and give you about an hour for lunch.
20 That's going to be the schedule. I know that's a
21 little late, but I think it's better than us taking
22 an early lunch and losing some time. So bear with
23 me, because we're trying to get this done in an
24 orderly fashion.

25 All right. Let me start with you,

1 Mr. Lowry and Ms. Duncan. If you'll introduce
2 yourselves, the firms you're connected with, and
3 Mr. Baca.

4 MS. DUNCAN: Thank you, Your Honor. My
5 name is Theresa Duncan. I'm with the law firm of
6 Duncan Earnest in Albuquerque, New Mexico. My
7 co-counsel is Marc Lowry, a partner with the law firm
8 of Rothstein Donatelli which has offices in
9 Albuquerque and also in Santa Fe. With us at counsel
10 table is Erin Glasser, and this is Anthony Ray Baca,
11 our client.

12 THE COURT: All right. Do any of the
13 jurors know any of the people sitting at Mr. Baca's
14 table: Mr. Lowry, his firm; Ms. Duncan, her firm?
15 Know Mr. Baca? Had any business dealings with them?
16 Been represented by Mr. Lowry, the Rothstein firm,
17 Ms. Duncan, or any firm that they've been a part of?
18 Had any similar business relationship? Any
19 relationship with any of them, Mr. Baca, Ms. Duncan,
20 Mr. Lowry, any firm they've been a part of? Somebody
21 has their hand up?

22 All right. Mr. Rodriguez, what's your
23 relationship?

24 MR. RODRIGUEZ: I believe Teri. Your
25 Honor, I believe I was in a CLE, continuing ed., with

1 Teri, I believe, and I was just aiding with the
2 visuals and audio recordings. But I just thought I
3 might disclose that.

4 THE COURT: And I think here at the bench
5 we talked about other attorneys you've known. Do you
6 think you could be fair and impartial to the parties
7 in this case?

8 MR. RODRIGUEZ: I believe so, Your Honor.

9 THE COURT: Thank you, Mr. Rodriguez.

10 Anyone else that knows any of the people
11 sitting at Mr. Baca's table? Any firms they're a
12 part of? Had any business dealings with Mr. Lowry,
13 the Rothstein firm, Ms. Duncan, any firm they've been
14 a part of? Had any other sort of similar
15 relationship, business connection, with Mr. Baca
16 Mr. Lowry, Ms. Duncan?

17 MS. DUNCAN: And Your Honor, I'm sorry, I
18 should have mentioned I was formerly with the law
19 firm of Freedman, Boyd, Hollander & Daniels in
20 Albuquerque.

21 THE COURT: Any of the jurors know people
22 at that firm? All right. And let me see. Who is
23 that?

24 MR. FINK: 59.

25 THE COURT: 59. And that's Mr. Fink.

1 Mr. Fink, what was your connection or how did you
2 know the --

3 MR. FINK: I just know Charlie Daniels from
4 working in musical circles.

5 THE COURT: Sure. He's a justice on the
6 Supreme Court, and he's very musical. Anything about
7 that relationship with Ms. Duncan's former firm that
8 would keep you from being fair and impartial to the
9 parties here?

10 MR. FINK: No.

11 THE COURT: Thank you, Mr. Fink.

12 Anyone else know anybody that -- let's see.
13 Ms. Harris, who do you know?

14 MS. HARRIS: I believe I went to high
15 school with one of the Rothstein children, but I'm
16 not too sure, but I think so.

17 THE COURT: Anything about that
18 relationship with the Rothstein children that would
19 keep you from being fair and impartial to the parties
20 in this case?

21 MS. HARRIS: No.

22 THE COURT: All right. Thank you, Ms.
23 Harris.

24 Anyone else? Anybody else know any of the
25 people at Mr. Baca's table or the firms they're a

1 part of, had any business dealings with them, been
2 represented by anybody at Freedman Boyd & Daniels or
3 the Rothstein firm or any firm that Ms. Duncan and
4 Mr. Lowry have been a part of? Had any similar
5 relationship business connection with any of those
6 firms, or with Mr. Baca in any way?

7 All right. Ms. Bhalla and Mr. Maynard, if
8 you will introduce yourselves and indicate any
9 witnesses that Mr. Herrera may choose to call.

10 MS. BHALLA: Thank you, Your Honor.

11 My name is Carey Bhalla. I'm a lawyer from
12 Albuquerque, New Mexico. I'm a solo practitioner.

13 This is William Maynard. He's a lawyer out
14 of El Paso, Texas, who is also a solo practitioner.

15 This is Carlos Herrera. He's our client.
16 And this is Sonya Salazar. She's our paralegal in
17 this case.

18 THE COURT: All right. Do any of jurors
19 know Ms. Bhalla, Mr. Maynard, had any business
20 dealings with them, been represented by Ms. Bhalla,
21 Mr. Maynard, or any firm they may have been a part
22 of? Had any similar relationship or business
23 connection with either of the attorneys?

24 Yes, who is that standing up back there?

25 MS. WOLFE: 50.

1 THE COURT: All right. Ms. Wolfe?

2 MS. WOLFE: Yes.

3 THE COURT: Who do you know at the table?

4 MS. WOLFE: I stayed in the same motel as
5 this table last evening, and I saw them at breakfast.

6 THE COURT: Other than seeing them, did you
7 have --

8 MS. WOLFE: Nothing.

9 THE COURT: Nothing else. Other than that,
10 you don't have any connection with them?

11 MS. WOLFE: No, sir.

12 THE COURT: All right. Anything about what
13 they did at the hotel that would keep you from being
14 fair and impartial?

15 MS. WOLFE: No, sir.

16 THE COURT: Okay. They're behaving
17 themselves. Okay. Thank you, Ms. Wolfe. I
18 appreciate it.

19 All right. Anybody else know any of the
20 people sitting at Mr. Herrera's table, had any
21 business dealings with Ms. Bhalla, Mr. Maynard, been
22 represented by Ms. Bhalla, Mr. Maynard, any firm
23 they've been a part of, had any sort of similar
24 relationship business connection with any of them?

25 All right. Ms. Bhalla, do you have any

1 witnesses that you may choose to call that we need to
2 disclose, see if the jurors know them?

3 MS. BHALLA: Yes, Your Honor. Julie Lopez,
4 Keith Miller, Jonathan McPherson, Estevan Flores,
5 Robert Cathey, Jodi Upshaw, Ronald Cardon, or Shannon
6 McReynolds.

7 THE COURT: Any of the jurors know any of
8 the people Ms. Bhalla mentioned?

9 Ms. Moore, who do you know off that list?

10 MS. MOORE: I know Robert Cathey, if it's
11 someone that's my age. And I know a Julie Lopez, but
12 that's a common name.

13 THE COURT: Why don't y'all come up to the
14 bench up here. While y'all are coming up, let me ask
15 Ms. Duncan, did you want to give any witnesses that
16 you want to present, may be presenting?

17 MS. DUNCAN: Yes, Your Honor, we do have
18 some witnesses.

19 THE COURT: Do you want to give those
20 names?

21 MS. DUNCAN: Sure. Tiffany Baca, Carolyn
22 Bueno, Keayr Braxton, Raimund Carrillo, Christopher
23 Cleveland, Grace Marie Duran, Grace Ruby Duran; Ivy
24 Duran, also known as Ivy Maldonado. Andres Duran,
25 also known as Andres Champ. German Franco. Nicholas

1 Gillingham, Jonathan Gomez, Samuel Gonzalez, Jon
2 Hirsch, Ernie Holguin, Tim Keller, Gregory Kesden,
3 Robert Martinez, formerly of the Bernalillo County
4 Sheriff's Office; Daniel Scott Mosby, David Ortner,
5 Rebecca Parker, Linda Pena, Christie Rayburn, Lance
6 Roundy, Alex Sanchez, Laura Schile, Clint Snodgrass,
7 Mark Songer, Michael Spence. Sorry, it's a little
8 bit of a list. Kayleen Taylor, Alex Tomlin, Edward
9 Urtiaga, Tommy Valdez, Peso Chavez, Robert Sanchez,
10 Jason Wright, and Jesse Sedillo.

11 THE COURT: Do any of the jurors know any
12 of the people that Ms. Duncan has listed out? Had
13 any business connection with them, been represented
14 by them? I think some of them may be investigators.
15 Any firms they've been a part of? Anybody had any
16 similar relationship, business connection with any of
17 the people that Ms. Duncan listed or that is sitting
18 at her table, her firm?

19 All right, Ms. Moore, why don't you come up
20 and talk.

21 (The following proceedings were held at the
22 bench.)

23 THE COURT: Get everybody up here.

24 All right, Ms. Moore. Who is the first
25 person?

1 MS. MOORE: Julie Lopez. That's a common
2 name.

3 THE COURT: Tell me about your Julie Lopez.

4 MS. MOORE: She lives in Carlsbad, New
5 Mexico. Her husband was David Lopez, who was
6 indicted on a child sex crime. She goes to my
7 church.

8 And the other is Robert Cathey.

9 THE COURT: Let's stop with Julie. What
10 does she do for a living?

11 MS. MOORE: She is a stay-at-home mom, but
12 she was a nurse.

13 THE COURT: And Ms. Bhalla, does that sound
14 like yours?

15 MS. BHALLA: No, Your Honor.

16 MS. MOORE: It's a common name.

17 THE COURT: What's the second name?

18 MS. MOORE: Robert Cathey. That is an
19 unusual name. If his parents are Naomi and Judge Lee
20 Cathey, I know Robert. I went to high school with
21 him.

22 THE COURT: What is Robert doing?

23 MS. MOORE: I think he's in the service or
24 something in El Paso.

25 THE COURT: All right. So he's --

1 MS. MOORE: I'm not, like, intimate; I
2 don't talk --

3 THE COURT: Do you think he's in the
4 military at Fort Bliss?

5 MS. MOORE: No, I think some other job.

6 THE COURT: But you think he's in El
7 Paso --

8 MS. MOORE: That's the last I heard.

9 THE COURT: -- the Robert Cathey --

10 MS. MOORE: If he's not kin to Judge Lee
11 Cathey --

12 MS. BHALLA: I don't know that. Let me ask
13 her, if I may, Your Honor.

14 Do you know if he works for the New Mexico
15 Department of Corrections?

16 MS. MOORE: He might. I've kind of lost
17 touch since high school, but we were in the same
18 clubs and stuff.

19 MS. BHALLA: Would his testimony present a
20 problem for you either way?

21 MS. MOORE: I would more than likely
22 believe him if it's the same Cathey that -- his
23 father was a judge, Lee Cathey, and his mother would
24 be Naomi, who taught school with both of my parents.
25 And I liked Robert a lot in high school, not as a

1 boyfriend, but he's a nice man. If it's the same
2 man, I would tend to believe whatever he said.

3 THE COURT: Do you think it's the same one?

4 MS. BHALLA: To be totally honest, I'm not
5 sure.

6 THE COURT: Do you have somebody you can
7 call and check?

8 MS. MOORE: I know he lives in southeastern
9 New Mexico. It could even be Las Cruces.

10 THE COURT: Now, it sounds like it's
11 Mr. Herrera that may call Mr. Cathey, and I don't
12 know if the Government is going to attack his
13 credibility. But if they did, because of the prior
14 relationship you had with him, would you believe him
15 rather than listen to the Government?

16 MS. MORE: I would listen, but his father
17 was a judge, Lee Cathey, and his mother -- I would
18 rather doubt he would lie.

19 THE COURT: All right.

20 MS. MOORE: But I haven't talked to him in,
21 like, 30 years.

22 THE COURT: Do you think that would keep
23 you from being fair and impartial to the parties
24 here, if the Government doesn't believe he's credible
25 and you still believe that he wouldn't lie because of

1 your prior relationship?

2 MS. MOORE: I mean, someone would have to
3 prove to me why he was lying. I just can't imagine
4 this man changing that drastically.

5 THE COURT: Okay. Mr. Beck.

6 MS. MOORE: But I mean, we're going back to
7 high school. But my parents knew him, if it's the
8 same Cathey. But that's an unusual surname.

9 MR. BECK: So it sounds to me like you
10 respect the Cathey family.

11 MS. MOORE: Yes, yes, yes. Carlsbad is a
12 small town.

13 MR. BECK: And that if Mr. Cathey testified
14 in court, you would presume that he's telling the
15 truth --

16 MS. MOORE: Yes.

17 MR. BECK: -- maybe more than other
18 witnesses you may hear?

19 MS. MOORE: I have no reason to believe
20 that Robert Cathey would start lying.

21 MR. BECK: So as you said, someone would
22 have to prove to you --

23 MS. MOORE: Yeah.

24 MR. BECK: Nothing further, Your Honor.

25 Thank you.

1 THE COURT: Thank you.
2 Ms. Bhalla, anything further? Ms. Duncan?
3 MS. DUNCAN: No, Your Honor.
4 THE COURT: Mr. Villa?
5 MR. VILLA: No, Your Honor.
6 THE COURT: Ms. Jacks and Mr. Jewkes?
7 MR. JEWKES: I am Ms. Jacks for right now.
8 THE COURT: Any questions?
9 MR. JEWKES: No, Your Honor. No.
10 THE COURT: Thank you, Ms. Moore.

11 Appreciate it.

12 (The following proceedings were held in
13 open court.)

14 THE COURT: All right. Do any of the
15 jurors know anyone that Ms. Bhalla has listed out,
16 introduced at her table? Had any business dealings
17 with them, been represented by Mr. Maynard, Ms.
18 Bhalla, or any firms they've been part of? Anybody
19 had any sort of similar relationship, business
20 connection with Mr. Herrera, Ms. Bhalla, Mr. Maynard,
21 anybody sitting at that table?

22 All right. Ms. Fox-Young, Mr. Villa, if
23 you'd like to introduce yourselves and any
24 witnesses -- indicate any witnesses that Mr. Perez
25 may choose to call.

1 MR. VILLA: Thank you, Your Honor.

2 I'm Ryan Villa, and standing next to me is
3 Justine Fox-Young. We both represent Rudy Perez. I
4 also have with me at counsel table one of my staff,
5 Eda Gordon. My office is out of Albuquerque. Ms.
6 Fox-Young is also out of Albuquerque, and Ms. Gordon
7 is from Santa Fe.

8 The witnesses that we may call -- and I
9 apologize if some of these are repetitive. Carolyn
10 Ricks-Ryder, Jose Martinez, Sujairi Ramirez, Matthew
11 Rounseville, Teresita de Jesus Arellano, Tamara
12 Vaughn -- sorry, Gaughan. Judy Smith. Ernesto
13 Rodriguez. Benjamin Montano, Rojelio Fierro, William
14 Price, Adam Vigil, Daniel Bustamontes, Crystal Salas
15 Cordova, John Shanks, Laura Schile, Michael Spence,
16 Raimund Carrillo, Edward French, Heather Brislen,
17 Katherine Raven, Wendy Perez, German Franco, Roland
18 Mares, Herman Gonzalez, Ivan Holguin, Alex Ramirez,
19 Jessalyn Easton, Jessica Herrera, Mandy Perez,
20 Captain Salazar, Cohen Mangin, Aaron Puerto, Charlie
21 Montoya. I think you heard these. Jason Wright,
22 Samuel Gonzales. Also Benjamin Clark, Amy Guerrero,
23 Gary Ainsworth, William Edgman, or Jesse Sedillo.

24 THE COURT: All right. Thank you,
25 Mr. Villa.

1 Do any of the jurors know any of the people
2 that Mr. Villa introduced at this table? Know any
3 other people that are on his potential witness list,
4 had any business dealings with Mr. Villa, with Ms.
5 Fox-Young? Ms. Fox-Young was -- yes, Mr. Besson, who
6 do you know off that list?

7 MR. BESSON: Ms. Fox-Young used to be my
8 state representative.

9 THE COURT: Okay. All right. Did you
10 interact with her when she was a state
11 representative?

12 MR. BESSON: I did not.

13 THE COURT: Okay. You lived in the
14 district, but you didn't have any interaction with
15 her?

16 MR. BESSON: That's correct. I'm also on
17 the board of a running club that sponsors a run in
18 memory of her father.

19 THE COURT: Okay. All right. Is there
20 anything about that relationship that you think would
21 keep you from being fair and impartial to the parties
22 in this case?

23 MR. BESSON: I don't think so.

24 THE COURT: All right. Thank you,
25 Mr. Besson.

1 Let's see. Who else had their hand up?
2 Ms. Sauer, who do you know off the list that
3 Mr. Villa mentioned?

4 MS. SAUER: I just wanted to make sure that
5 I did not know them, but there is a family in
6 Estancia by the name of -- now, I'm sorry, was it
7 Jesse Sedillo?

8 THE COURT: Was that one of the people you
9 mentioned, Mr. Villa?

10 MR. VILLA: Yes, Your Honor.

11 THE COURT: Okay.

12 MS. SAUER: And I was just -- okay, I was
13 just wondering, to find out that it's not the same
14 people that we might know and acknowledge to the
15 judge that we have some relationships with them as
16 friends.

17 THE COURT: Why don't you come up here to
18 the bench, Ms. Sauer?

19 MS. SAUER: Okay.

20 THE COURT: Anyone else that knows any of
21 the people -- let's see. Is that Ms. Yatsattie?

22 MS. YATSATTIE: Can he be more clear on
23 Captain Salazar?

24 THE COURT: Why don't you come up here to
25 the bench, as well.

1 Okay, we'll talk about Mr. Salazar. Anyone
2 else that knows the names? Did I see a hand up over
3 here? Anybody have their hand up? Why don't I see
4 counsel here at the bench. Let's wait till the
5 attorneys get up here and we'll answer your questions
6 here.

7 (The following proceedings were held at the
8 bench.)

9 THE COURT: Mr. Villa, I think it was Jesse
10 Sedillo.

11 MR. VILLA: Yes, Your Honor.

12 THE COURT: Was it Jesse Sedillo?

13 MS. SAUER: I was just wondering, hoping it
14 wasn't the same one. I wasn't going to say anything,
15 but no, I better say something. His family -- well,
16 Jesse went to school with one of my boys. And of
17 course, we -- you know, we had relations with the
18 family. We were friends, and you know, we went
19 through classes together with the boys.

20 THE COURT: How old is Jesse Sedillo, that
21 you know?

22 MS. SAUER: Let me see. He'd be about
23 maybe 50.

24 THE COURT: 50. Okay. What does he do for
25 a living?

1 MS. SAUER: You know what? I don't know.
2 Like I said, I knew them while my boys were in
3 school, and so I can't really tell you, because I
4 don't know what he did after he graduated. So I was
5 just wondering if -- just that I know that his
6 parents live in Estancia.

7 THE COURT: Okay.

8 MS. SAUER: And that's about all.

9 THE COURT: All right.

10 Mr. Villa, does it sound like the Jesse
11 Sedillo --

12 MR. VILLA: I don't think so, Your Honor.
13 I need to ask a couple of questions.

14 THE COURT: Go ahead.

15 MR. VILLA: Do you know where Mr. Sedillo
16 is now?

17 MS. SAUER: I think he lives in
18 Albuquerque.

19 MR. VILLA: You think he's living there?

20 MS. SAUER: Yes.

21 MR. VILLA: Did you ever know him to live
22 in the Las Cruces or Dona Ana area?

23 MS. SAUER: You know what? I don't think
24 so. I don't think so.

25 MR. VILLA: I don't think it's the same

1 one.

2 MS. SAUER: Okay. I just wanted to make
3 sure. I'm sorry.

4 THE COURT: Let's just say Jesse Sedillo
5 walked in here and you did recognize him, "Yeah,
6 that's the young man I knew with my boys or my
7 children when they were growing up," would that cause
8 you to believe him over other people? Would you come
9 in with any sort of bias one way or another about
10 what he's about to say?

11 MS. SAUER: Oh, no. I don't think so.

12 THE COURT: Do you think you could be
13 neutral about him?

14 MS. SAUER: Yes, I think I can.

15 THE COURT: Do you think you could be fair
16 and impartial to all the sides in this case?

17 MS. SAUER: Yes, I think I can.

18 THE COURT: Mr. Beck?

19 MR. BECK: Nothing, Your Honor. Thank you.

20 THE COURT: Ms. Duncan.

21 MS. DUNCAN: No, Your Honor.

22 THE COURT: Ms. Bhalla.

23 MS. BHALLA: No, Your Honor.

24 THE COURT: Mr. Villa?

25 MR. VILLA: No, Your Honor.

1 THE COURT: Mr. Jewkes?

2 MR. JEWKES: No, Your Honor.

3 THE COURT: Thank you. Appreciate it.

4 Hi, Ms. Yatsattie, how are you doing today?

5 MS. YATSATTIE: How are you?

6 THE COURT: And you thought you knew which

7 one?

8 MS. YATSATTIE: Captain Salazar.

9 THE COURT: Okay. What's your question on

10 him?

11 MS. YATSATTIE: If they're with the Milan

12 Police Department.

13 THE COURT: With the Milan --

14 MS. YATSATTIE: Police Department.

15 THE COURT: Do you know if --

16 MR. VILLA: I should have said this. It's

17 Gabriel Salazar.

18 MS. YATSATTIE: Okay. No.

19 MR. VILLA: You don't know Mr. Salazar,

20 that you know of? Did you ever know him to work for

21 the New Mexico Corrections Department?

22 MS. YATSATTIE: No. The one I know works

23 for the Milan Police Department. That's as far as I

24 know.

25 THE COURT: All right, Mr. Beck.

1 Anything from Ms. Duncan?

2 MS. DUNCAN: No, Your Honor.

3 THE COURT: Ms. Bhalla?

4 Thank you. Appreciate it.

5 (The following proceedings were held in
6 open court.)

7 THE COURT: All right. Just to finish up
8 with Mr. Perez' table, do any of the jurors know any
9 of the people that Mr. Villa listed out? Anybody
10 sitting at Mr. Perez' table? Had any business
11 dealings with them, been represented by Mr. Villa,
12 Ms. Fox-Young? Ms. Fox-Young was recently with a
13 lawyer named Paul Kennedy, Kennedy & Associates.
14 Mr. Villa used to work with a gentleman named Robert
15 Cooper. Any firm they've been a part of, had any
16 sort of relationship or business connection with any
17 of the people sitting at Mr. Perez' table or anybody
18 that Mr. Villa introduced, or the names I've just put
19 in there?

20 All right, Ms. Jacks, Mr. Jewkes.
21 Introduce yourselves, and also any witnesses that you
22 may be calling.

23 MR. JEWKES: My name is Richard Jewkes.
24 I'm an attorney out of El Paso, Texas. The lady to
25 my immediate right, Amy Jacks, is an attorney out of

1 Los Angeles, California, and the lady to the right of
2 Mr. Sanchez, who is our client, is Cynthia Gilbert.
3 She is a paralegal specialist out of Albuquerque, New
4 Mexico.

5 THE COURT: All right. Do you have
6 witnesses?

7 MR. JEWKES: I do. And our client is
8 Daniel Sanchez.

9 THE COURT: Do you have witnesses that Mr.
10 Sanchez may choose to call?

11 MR. JEWKES: I do, Your Honor.

12 THE COURT: Mr. Jewkes.

13 MR. JEWKES: Herman Gonzales, Ivan Holguin,
14 Alex Ramirez, James Brewster, Jodi Upshaw, Estevan
15 Flores, Mario Esparza, Olivia Meraz, Esther Garcia,
16 Christian Filipiak, F-I-L-I-P-I-A-K, and Cheryl
17 Martinez.

18 THE COURT: All right. Do any of the
19 jurors know any of the people that are at
20 Mr. Sanchez' table? Know any of the people that
21 Mr. Jewkes just listed? Somebody has their hand up.
22 All right.

23 Ms. Padilla, who do you know off that?

24 MS. PADILA: Mario Esparza.

25 THE COURT: Mario Esparza, the attorney

1 here?

2 MS. PADILLA: Yes.

3 THE COURT: And is that the same one, Mario
4 Esparza, the attorney?

5 MR. JEWKES: No. Different.

6 THE COURT: Okay. I think we know Mario
7 Esparza here in Las Cruces, but it doesn't sound like
8 it's the same one.

9 MR. JEWKES: Yes, Your Honor. That's
10 correct.

11 THE COURT: Anybody else know any of the
12 people Mr. Jewkes has listed? Anybody at their
13 table, anybody been represented, any business
14 dealings with Ms. Jacks, Mr. Jewkes, or any firm that
15 they may have been a part of? Anybody had any sort
16 of similar business relationship connection with
17 anybody at that table? Anything Mr. Jewkes listed or
18 with Mr. Sanchez in any way? Ms. Gilbert?

19 Ms. Gilbert does paralegal work up in Albuquerque.
20 Anybody had any business relationship with her?

21 All right, Mr. Jewkes. Thank you.

22 Ms. Jacks.

23 MR. JEWKES: Thank you.

24 THE COURT: All right. Let me -- I'm going
25 to ask some questions that many of you answered off

1 the questionnaires, but I want to go into a little
2 more detail with them on some of the questions. I'm
3 going to talk about your jury experience to date.

4 So the question is: Have you ever served
5 as a juror in a criminal or civil case or as a member
6 of a grand jury in either a state or federal court?
7 Anybody had that experience?

8 All right. Let me start with you,
9 Ms. Montes. What's been your experience as a juror,
10 Ms. Montes?

11 MS. MONTES: It was in district court for
12 sexual penetration to a minor.

13 THE COURT: And that was in state district
14 court?

15 MS. MONTES: Yes.

16 THE COURT: And what did the jury do in
17 that case?

18 MS. MONTES: I think we got him guilty.

19 THE COURT: And did you serve as the
20 foreperson in that case?

21 MS. MONTES: Sorry?

22 THE COURT: Did you serve as a foreperson
23 on that case?

24 MS. MONTES: It was 12 of us, I think.

25 THE COURT: Okay. And were you the

1 foreperson at the end of the case, the person that
2 spoke in the courtroom?

3 MS. MONTES: I don't remember. It's been
4 so many years ago.

5 THE COURT: All right. What do you think
6 about the use of juries in our criminal justice
7 system?

8 MS. MONTES: I don't know.

9 THE COURT: All right. Thank you, Ms.
10 Montes. I appreciate it.

11 Who else had their hand up in the jury box?

12 If you'll hand it to the back, Mr. Besson,
13 what's been your experience as a juror? We'll start
14 with Mr. Compton. What's been your experience as a
15 juror?

16 MR. COMPTON: I was a juror in a case in
17 Athens, Georgia, when I lived there. I don't know
18 what the level of jurisdiction was, but it was
19 alleged drug dealing.

20 THE COURT: All right.

21 MR. COMPTON: A man on trial for alleged
22 drug-dealing.

23 THE COURT: And what did the jury do in
24 that case?

25 MR. COMPTON: We found him guilty.

1 THE COURT: And did you serve as foreperson
2 on that case?

3 MR. COMPTON: Yes.

4 THE COURT: And what do you think about the
5 use of juries in our criminal justice system?

6 MR. COMPTON: I sometimes think it would be
7 better if we didn't have juries. We'd be more like
8 Europe and just have judges decide the cases. I
9 think juries get it wrong a lot.

10 THE COURT: All right. Thank you, Mr.
11 Compton. I appreciate it.

12 Anybody else in the jury box that's had
13 jury experience?

14 Mr. Besson, have you had jury experience?

15 MR. BESSON: Yes, I served on two cases,
16 one criminal and one civil case.

17 THE COURT: Let's talk about the criminal
18 case first. What kind of case was it?

19 MR. BESSON: It was a robbery of a retail
20 store.

21 THE COURT: What did the jury do in that
22 case?

23 MR. BESSON: They found the defendant
24 guilty.

25 THE COURT: And did you serve as the

1 foreperson?

2 MR. BESSON: Not on that case.

3 THE COURT: All right. What about the
4 civil case? What kind of case was it?

5 MR. BESSON: It was a citizen filing suit
6 against a state contractor for injury.

7 THE COURT: Which way did the jury go on
8 that?

9 MR. BESSON: They found in favor of the
10 defendant.

11 THE COURT: Now, in a civil case, it
12 doesn't always have to be unanimous like it does in a
13 criminal case, which has to be unanimous. Was the
14 jury divided on the civil case?

15 MR. BESSON: Yes.

16 THE COURT: And were you in the majority or
17 the minority on that case?

18 MR. BESSON: The majority.

19 THE COURT: Did you serve as the foreperson
20 on that case?

21 MR. BESSON: Yes, I did.

22 THE COURT: All right. Anything about
23 those experiences that would keep you from being fair
24 and impartial to the parties in this case?

25 MR. BESSON: I don't believe so.

1 THE COURT: And Mr. Compton, I'll ask you
2 the same question. Anything about your experience as
3 a juror that would keep you from being fair and
4 impartial to the parties in this case?

5 MR. COMPTON: No, I would try to listen to
6 the evidence and consider it fairly.

7 THE COURT: All right. Thank you.

8 Ms. Montes, anything about your prior
9 experience that would keep you from being fair and
10 impartial to the parties in this case?

11 MS. MONTES: No, sir.

12 THE COURT: All right. Thank you.
13 Appreciate it.

14 All right. If you'll send that microphone
15 down, how about at the back on this side? Anybody
16 had jury experience? Not seeing any hands, I'm going
17 to move over to this side. Anybody have prior jury
18 experience? I'm seeing one at the back there.

19 Let's see. Is that Ms. Minton? Am I
20 looking at the right person? Is it Ms. Minton?

21 Ms. Minton, what's been your experience as
22 a juror?

23 MS. MINTON: I've been both on the state
24 and the federal juries.

25 THE COURT: Okay. Let's start with your

1 state cases. What state cases have you had,
2 Ms. Minton?

3 MS. MINTON: It was a murder trial.

4 THE COURT: What did the jury do in that
5 case?

6 MS. MINTON: The person was found guilty.

7 THE COURT: And did you serve as the
8 foreperson on that case?

9 MS. MINTON: No, I did not.

10 THE COURT: Tell me about your federal
11 experience.

12 MS. MINTON: It was I think about three or
13 four years ago, and it had to do with drugs. The
14 only thing was, at the very end, I was an alternate.

15 THE COURT: You were an alternate. So you
16 got excused. Did you find out what the jury did?

17 MS. MINTON: They found one of them guilty
18 and the other one not guilty.

19 THE COURT: Did you agree with the verdict
20 when you heard about it?

21 MS. MINTON: I think so.

22 THE COURT: What do you think about the use
23 of our -- is that the extent of your jury experience?

24 MS. MINTON: I've been on some smaller
25 things way back when. Those were the most recent.

1 THE COURT: Tell me about the ones in the
2 past. What were the smaller things?

3 MS. MINTON: One of them was the same
4 thing, kind of a workmen's comp case.

5 THE COURT: So it was a civil case?

6 MS. MINTON: A civil case, yeah.

7 THE COURT: And did you agree with the
8 verdict in that case?

9 MS. MINTON: Yes, I did.

10 THE COURT: Which way did it come out?

11 MS. MINTON: It was kind of a split. It
12 was a compromise. The person that had been hurt was
13 provided funds to be reeducated to do different work,
14 but he didn't win the lottery.

15 THE COURT: And you agreed with that
16 verdict?

17 MS. MINTON: Yes.

18 THE COURT: And did you serve as the
19 foreperson on that?

20 MS. MINTON: No.

21 THE COURT: Any other matters that you've
22 had as a juror?

23 MS. MINTON: There was a small assault
24 case, same thing. It was a split case. He was found
25 guilty on a couple of counts, but not on the others.

1 And again, I agreed, and I wasn't the foreman.

2 THE COURT: Okay. And those four cases are
3 the universe of your experience as a juror?

4 MS. MINTON: Yes, sir.

5 THE COURT: And is there anything about
6 that experience that would keep you from being fair
7 and impartial to the parties in this case?

8 MS. MINTON: No.

9 THE COURT: What do you think about, in the
10 criminal context, the use of juries?

11 MS. MINTON: It's very intense; and in a
12 way, they're more formulated and more structured than
13 in some of the civil things. Like you said, they
14 have to be unanimous; everyone really pays attention
15 in those cases because it's a very serious
16 transaction that's going to happen.

17 THE COURT: All right. Thank you, Ms.
18 Minton. Appreciate it.

19 Anyone else over here had jury experience?
20 Down at the end, it looks like there's two. Let's
21 start with Ms. Becker.

22 What's been your experience? Is it not
23 you? It's the one behind you?

24 Ms. Murphy? What's been your experience,
25 Ms. Murphy?

1 MS. MURPHY: My experience, I was -- it was
2 like 35 years ago. It was a solicitation case in
3 California, and she was found guilty. And the other
4 experience was an alternate on a grand jury, where I
5 did get called in for someone's sickness, and we were
6 just listening to -- I think it was credit card theft
7 and there was a drug case.

8 THE COURT: All right. Let's talk about
9 the solicitation case. What did the jury do in that
10 case?

11 MS. MURPHY: She was found guilty.

12 THE COURT: All right. And did you serve
13 as the foreperson on that case?

14 MS. MURPHY: No.

15 THE COURT: And you were an alternate in
16 the grand jury case; right?

17 MS. MURPHY: Yes.

18 THE COURT: Anything about your jury
19 experience that would keep you from being fair and
20 impartial to the parties in this case?

21 MS. MURPHY: I don't believe so.

22 THE COURT: And what do you think about the
23 use of juries in our criminal justice system?

24 MS. MURPHY: I think it's the best system
25 in the world.

1 THE COURT: Thank you, Ms. Murphy.

2 Let's see. Who else had their hands up
3 down the road? Did somebody else have their hand up
4 over there? Anybody else over here have jury
5 experience?

6 Let's come over here to the middle here.
7 Let's see. Who had their hand up in this row? I
8 don't have the order correct on this. Who is on that
9 row? Let's start with you, Ms. Tighe.

10 MS. TIGHE: I was an alternate on a jury in
11 California back in the '80s for brandishing of a
12 deadly weapon. The person was found guilty.

13 THE COURT: Did you serve as foreperson on
14 that case?

15 MS. TIGHE: No, sir.

16 THE COURT: Anything about that experience
17 that would keep you from being fair and impartial to
18 the parties in this case?

19 MS. TIGHE: No, sir.

20 THE COURT: What do you think about the use
21 of juries in our criminal justice?

22 MS. TIGHE: I think they have their place,
23 but I think a judge is a better decider.

24 THE COURT: Thank you, Ms. Tighe.

25 Who else had their hands up over here? Is

1 it Ms. Dixon? You'll have to identify yourself,
2 because I can't figure out this chart. It's not Ms.
3 Dixon?

4 Ms. Wojcik. What's been your experience as
5 a juror?

6 MS. WOJCIK: I served on two different
7 juries in DeKalb County, George. One was a civil
8 case 20 years ago. I think it was a contractor and
9 the homeowner, and it was just a dispute. I don't
10 remember the outcome.

11 Then I was an alternate on a DUI case where
12 they settled before we came to a conclusion.

13 THE COURT: So one was a criminal case and
14 one was a civil case. Let's talk about the civil
15 case for a moment. Did you serve as the foreperson
16 on that case?

17 MS. WOJCIK: No.

18 THE COURT: Did you agree with the verdict?

19 MS. WOJCIK: I don't remember the verdict.

20 THE COURT: Do you remember what the
21 verdict was?

22 MS. WOJCIK: I think that we worked out an
23 arrangement between the two. It was a long
24 deliberation.

25 THE COURT: All right. Let's go to the

1 criminal case. Did you serve -- I guess you didn't
2 get to deliberations, so you probably didn't have a
3 foreperson. Which way were you leaning on that case
4 when it settled?

5 MS. WOJCIK: I never heard any argument
6 from either side. I had no idea. I didn't get to
7 hear what the defendant had to say, because he
8 decided to settle before we heard anything.

9 THE COURT: Anything about those
10 experiences that would keep you from being fair and
11 impartial to the parties in this case?

12 MS. WOJCIK: No.

13 THE COURT: What do you think about the use
14 of juries in our criminal justice?

15 MS. WOJCIK: I think it's essential.

16 THE COURT: All right. Thank you,
17 Ms. Wojcik.

18 Anybody else? It's Mr. Schoonover?

19 MR. SCHOONOVER: Yes, I served on one jury.
20 It was a theft case. He was found innocent.

21 THE COURT: Did you serve as a foreperson
22 on that case?

23 MR. SCHOONOVER: I did not.

24 THE COURT: And is there anything about
25 that experience that would keep you from being fair

1 and impartial in this case?

2 MR. SCHOONOVER: No.

3 THE COURT: And what do you think about the
4 use of juries in our criminal justice system?

5 MR. SCHOONOVER: It's the way to go.

6 THE COURT: Thank you, Mr. Schoonover.

7 Anybody else over here? Mr. Hassell? Oh,
8 okay, Mr. Dixon?

9 MR. DIXON: Yes. A murder trial in El
10 Paso.

11 THE COURT: And what did the jury do in
12 that case?

13 MR. DIXON: Found her guilty.

14 THE COURT: And did you serve as the
15 foreperson?

16 MR. DIXON: No.

17 THE COURT: Anything about that experience
18 that would keep you from being fair and impartial to
19 the parties in this case?

20 MR. DIXON: No.

21 THE COURT: What do you think about the use
22 of juries in our criminal justice system?

23 MR. DIXON: Appropriate.

24 THE COURT: All right. Thank you, Mr.
25 Dixon.

1 Anyone else over on the right side, my
2 right, your left? All right. Okay, Mr. Hassell?

3 MR. HASSELL: I served on a murder trial
4 here in state court in Las Cruces.

5 THE COURT: And what did the jury do in
6 that case?

7 MR. HASSELL: Found him guilty.

8 THE COURT: All right. Anything about that
9 experience that would keep you from being fair and
10 impartial to the parties in this case?

11 MR. HASSELL: No, sir.

12 THE COURT: Did you serve as the
13 foreperson?

14 MR. HASSELL: No, sir.

15 THE COURT: And what do you think about the
16 use of juries in our criminal justice system?

17 MR. HASSELL: I think it's the right thing.

18 THE COURT: Thank you, Mr. Hassell.

19 Anyone else over here that's had jury
20 experience? How about over on this side? Let's see.

21 Ms. Courtier, what's been your experience
22 as a juror? Right here in the front.

23 MS. GARNANEZ: Me?

24 THE COURT: Front row. Did you have jury
25 experience?

1 MS. GARNANEZ: Garnanez, juror 20. I was
2 in a criminal case with -- drug-related in district
3 court. We found the defendant not guilty because
4 there was not enough evidence.

5 THE COURT: Okay. Was it just one case?

6 MS. GARNANEZ: Yes.

7 THE COURT: And did you serve as the
8 foreperson on that case?

9 MS. GARNANEZ: No.

10 THE COURT: Anything about that experience
11 that would keep you from being fair and impartial to
12 the parties here?

13 MS. GARNANEZ: I believe that a person is
14 innocent until proven guilty.

15 THE COURT: And what do you think about the
16 use of juries to make that determination?

17 MS. GARNANEZ: I think it's good.

18 THE COURT: All right. Thank you,
19 Ms. Garnanez.

20 Who else had their hands up? Let's see.
21 Is it Mr. McNair?

22 MR. McNAIR: Yes.

23 THE COURT: What's been your experience as
24 a juror?

25 MR. McNAIR: I was just left off of a City

1 of Las Cruces State of New Mexico DUI case.

2 THE COURT: What did the jury do in that
3 case?

4 MR. McNAIR: Not guilty.

5 THE COURT: Not guilty?

6 MR. McNAIR: Yes. The police couldn't
7 remember anything.

8 THE COURT: Did you serve as a foreperson?

9 MR. McNAIR: No, I didn't.

10 THE COURT: Anything about that experience
11 that would keep you from being fair and impartial to
12 the parties here?

13 MR. McNAIR: No.

14 THE COURT: And what do you think about the
15 use of juries in our criminal justice system?

16 MR. McNAIR: No comment.

17 THE COURT: All right. Thank you.

18 Anyone else over on this side? I'm going
19 to have to have a little help seeing on that row. Is
20 that Ms. Huerta? What's been your experience as a
21 juror?

22 MS. HUERTA: I was on a murder trial and
23 domestic violence, and I can't remember what the
24 other one was.

25 THE COURT: All right. Let's start with

1 the murder trial. Are the murder trial and the
2 domestic violence separate cases?

3 MS. HUERTA: Yes.

4 THE COURT: Let's start with the murder
5 trial. What happened to the -- what did the jury do
6 in that case?

7 MS. HUERTA: We found him guilty.

8 THE COURT: Did you serve as a foreperson?

9 MS. HUERTA: No.

10 THE COURT: What about on the domestic
11 violence? What did the jury do?

12 MS. HUERTA: We found him guilty.

13 THE COURT: Did you serve as a foreperson
14 on that?

15 MS. HUERTA: No.

16 THE COURT: Did you say there was another
17 matter that you had?

18 MS. HUERTA: I was on another one, but I
19 can't remember what it was.

20 THE COURT: You don't remember if it was
21 criminal or civil?

22 MS. HUERTA: No.

23 THE COURT: Anything about it? All right.
24 What do you think about the use of juries in our
25 criminal justice system?

1 MS. HUERTA: I think they work.

2 THE COURT: And anything about your
3 experience as a juror on any of those three cases
4 that would keep you from being fair and impartial to
5 the parties here?

6 MS. HUERTA: No.

7 THE COURT: Thank you, Ms. Huerta.
8 Anybody else have their hand up?

9 Okay, we're going to go back a row. Is
10 that -- who is back there? Is that Ms. Smith?

11 MS. BUSH: Ms. Bush.

12 THE COURT: Ms. Bush. Okay. Ms. Bush,
13 what's been your experience?

14 MS. BUSH: I served both on district and
15 magistrate. And the district was a drug charge, and
16 I'm not really sure what the magistrate one was.

17 THE COURT: Let's start, then, with the
18 drug charge. What did the jury do in that case?

19 MS. BUSH: They found him guilty.

20 THE COURT: Did you serve as the
21 foreperson?

22 MS. BUSH: No.

23 THE COURT: Let's again go to the other
24 case. Was the other case a civil or a criminal case,
25 or do you remember?

1 MS. BUSH: I think it was civil.

2 THE COURT: Okay. Do you remember anything
3 about it?

4 MS. BUSH: I was the alternate on that one.

5 THE COURT: After you left, did you find
6 out what the jury did?

7 MS. BUSH: No, I have no idea what they
8 did.

9 THE COURT: And do you know which way you
10 were leaning, or do you remember enough about the
11 case?

12 MS. BUSH: I was leaning more towards not
13 guilty for that one.

14 THE COURT: What do you think about the use
15 of juries in our criminal justice system?

16 MS. BUSH: I think they work good.

17 THE COURT: Is there anything about your
18 experience as a juror in those three cases that would
19 keep you from being fair and impartial to the parties
20 here, those two cases?

21 MS. BUSH: No, sir.

22 THE COURT: Thank you, Ms. Bush.

23 Anyone else over here have their hand up?

24 All right. Let me ask the question again,
25 just to make sure we've caught all the jury service.

1 Have you ever served as a juror in a criminal or a
2 civil case or as a member of a grand jury in either a
3 state or federal court? Anybody had any jury
4 experience that we haven't talked about?

5 All right. I'm going to go to a different
6 topic, but I think we better do it after lunch. So
7 let me remind you of a few things that are especially
8 important, because we are taking kind of our first
9 lunch break during the voir dire, and I want you to
10 really keep these in mind.

11 Until the trial is completed, you're not to
12 discuss this case with anyone, whether it's members
13 of your family, people involved in the trial, anyone
14 else. And that includes your fellow jurors. So
15 again, talk about something else.

16 If anyone approaches you -- and this is
17 very important. If anyone approaches and tries to
18 discuss the trial with you, please let me know about
19 it immediately. There may be people that want to
20 talk to you about what you're doing today. And don't
21 get involved in that. Just say, "The judge told me I
22 couldn't talk about it."

23 You're going to be gone for about an hour,
24 so don't read or listen to any news reports of the
25 trial, don't get on the internet and do any research

1 on your phones or anything for purposes of this case.
2 And finally, remember that you must not talk about
3 anything with any person who is involved in the
4 trial. So again, look at these tables and don't talk
5 to them about anything, even if it doesn't have
6 anything to do with the trial.

7 If you need to speak with me, simply give a
8 note to one of the court security officers or
9 Ms. Wild or Ms. Standridge. Again, I'll try not to
10 repeat these every time we take a break, but I do
11 want to get them firmly in your minds so we don't
12 have any missteps this afternoon as we try to bring
13 this voir dire to a close.

14 All right. We'll be back in about an hour.
15 Same rules. Stay outside until we come get you, and
16 be seated there then where you're seated right now
17 for this afternoon's questions.

18 (The venire panel left the courtroom.)

19 THE COURT: All right. Anything we need to
20 discuss before we leave? Mr. Castellano?

21 MR. CASTELLANO: I have one quick matter,
22 Your Honor. Well, maybe two now. Juror number 26,
23 Stanley Dixon, I knew him from high school. He
24 doesn't seem to remember me or recognize me. We went
25 to different schools, but we had friends in common.

1 He hasn't mentioned it, so it may be that he doesn't
2 remember me.

3 THE COURT: All right.

4 MR. CASTELLANO: And then I think it was
5 Mr. Oldknow, number 10. Making sure there are no
6 jurors. My guess is that he'll be struck for cause,
7 but as he was leaving, he shook hands with Agent
8 Acee, and I think he said something to the effect,
9 "I'm sorry to hear about Mr. McCabe," which I think
10 is one of the FBI deputy directors. So I just
11 figured I'd share that with the Court.

12 THE COURT: I saw him reach over there and
13 shake Mr. Acee's hand, and I didn't know what that
14 was about.

15 MR. CASTELLANO: That was it, Your Honor.

16 THE COURT: That was it? All right. Well,
17 we can figure out what to do with that after lunch.
18 Anything else we need to discuss?

19 THE CLERK: Yes.

20 THE COURT: I'm going to put a couple of
21 things as exhibits to our clerk's minutes. This
22 letter on behalf of Wojcik, I'm going to put that as
23 Exhibit A to the clerk's minutes.

24 This thing on Joseph Mullings, who we
25 struck. I'm going to put that as Exhibit B to the

1 clerk's minutes.

2 And then y'all may want to look at another
3 juror. She's not in the room. Her name is Izabella
4 Zubelewicz, and she has a letter here about her
5 health concerns. I'll have Ms. Standridge put it out
6 in front of the jury box, and you might take a look
7 at it on the way out. She's not in the room right at
8 the moment. We may as well go ahead and excuse her.
9 It's up to y'all.

10 Anything else from the defendants? All
11 right. We'll see you in about an hour.

12 (The Court stood in recess.)

13 THE COURT: Before we bring the jury in,
14 did y'all make a decision as to what y'all want to do
15 with Zubelewicz?

16 MS. DUNCAN: The defense would agree to
17 excuse her.

18 THE COURT: Do you want her in or out,
19 Mr. Beck?

20 MR. BECK: Oh, yes, we agree.

21 THE COURT: We're going to mark this as
22 Exhibit C. So not hearing any objection, Zubelewicz
23 is juror number --

24 THE CLERK: She's not in the pool. She's
25 in the third wave.

1 THE COURT: She's in the third wave. All
2 right. Is there anything we need to discuss before
3 we bring the jury in? Mr. Beck, anything you need to
4 discuss?

5 MR. BECK: No, Your Honor.

6 THE COURT: Ms. Duncan?

7 MS. DUNCAN: Your Honor, I think when the
8 defense teams were reading their witness lists -- we
9 had filed originally separate witness lists, and then
10 we have a consolidated one. So with the Court's
11 leave, I'd like to read it to the jury.

12 THE COURT: That will be fine. Anything
13 else? All rise.

14 (The venire panel entered the courtroom.)

15 THE COURT: I think it's just taking a
16 little bit of time to get everybody through security.
17 We'll just wait to get them through. I think
18 everybody is coming back. I hope so.

19 All right. You're a great bunch. You came
20 back. I appreciate it. It means a lot to a judge
21 and you bring a lot of happiness to me when you come
22 back. I appreciate it.

23 Let me give everybody a chance to see if
24 anybody else had served on a jury, as a juror in a
25 criminal or a civil case, or as a member of a grand

1 jury either in federal or state court that we didn't
2 pick up this morning. All right.

3 Ms. Decramer, what has been your experience
4 as a juror?

5 MS. DECRAMER: I'm trying to recall. I
6 think was a domestic abuse case.

7 THE COURT: Okay.

8 MS. DECRAMER: And the gal was declared
9 innocent although I thought she was guilty.

10 THE COURT: Okay. But you went along with
11 the jury because most of them felt she was not
12 guilty?

13 MS. DECRAMER: They put the pressure on,
14 so...

15 THE COURT: And did you serve as the
16 foreperson on that case?

17 MS. DECRAMER: No, I did not.

18 THE COURT: Is there anything about that
19 experience that would keep you from being a fair and
20 impartial juror in this case?

21 MS. DECRAMER: Like I say, there was
22 pressure to have a complete agreement, and I just
23 didn't think she was not guilty.

24 THE COURT: What do you think about the use
25 of juries in our criminal justice system?

1 MS. DECRAMER: I think in most cases it's
2 good.

3 THE COURT: All right. Thank you, Ms.
4 Decramer.

5 Anyone else? Have you served as juror in a
6 criminal or civil case or as a member of a grand jury
7 in either a state or federal court? Anybody had that
8 experience? Ms. Sauer?

9 MS. SAUER: Yes, I didn't get to stay. I
10 was down there. I went to district court in
11 Estancia, New Mexico, and it turned out that I knew
12 the fellow's family. His parents sublet us their
13 property. So I had to tell that to the judge and to
14 the counsel when they were questioning me, and I was
15 dismissed. He was found guilty and spent 23 years in
16 prison. So that's about it, as far as my experience.

17 THE COURT: So you were in a voir dire like
18 this and that's how you got excused?

19 MS. SAUER: Yes, sir.

20 THE COURT: Anything about that experience
21 that would keep you from being fair and impartial to
22 the parties in this case?

23 MS. SAUER: Oh, no.

24 THE COURT: What do you think about the use
25 of juries in our criminal justice system?

1 MS. SAUER: I really think it's good.

2 THE COURT: Thank you, Ms. Sauer.

3 Anyone else ever served as a juror in a
4 criminal or civil case or as a member of a grand jury
5 in either state or federal court that we haven't
6 talked about?

7 MR. BECERRA: It was a civil case.

8 THE COURT: All right. And you're
9 Mr. Becerra?

10 MR. BECERRA: Yes, sir.

11 THE COURT: Mr. Becerra, was it a civil
12 case?

13 MR. BECERRA: I don't remember too many
14 details, but we didn't award any money in the end.

15 THE COURT: Okay. Now, again, on a civil
16 case, you don't always have to agree. Did you agree
17 with the verdict in that case?

18 MR. BECERRA: Yes, sir.

19 THE COURT: And did you serve as the
20 foreperson?

21 MR. BECERRA: No.

22 THE COURT: Anything about that experience
23 that would keep you from being fair and impartial to
24 the parties in this case?

25 MR. BECERRA: No.

1 THE COURT: Thank you, Mr. Becerra.

2 Anyone else? Let's see. Ms. Becker,
3 what's been your experience as a juror?

4 MS. BECKER: Do you want magistrate
5 experience as well?

6 THE COURT: Yeah, if you served as a juror
7 in magistrate court.

8 MS. BECKER: It was a civil case between
9 two parties in regard to a student being slapped by
10 an assistant at the school district. And so we did
11 not find the defendant guilty.

12 THE COURT: Did you serve as the foreperson
13 on that case?

14 MS. BECKER: No, sir.

15 THE COURT: Anything about that experience
16 that would keep you from being fair and impartial to
17 the parties in this case?

18 MS. BECKER: No, sir.

19 THE COURT: What do you think about the use
20 of juries in our criminal justice system?

21 MS. BECKER: I think they're valuable.

22 THE COURT: All right. Thank you,
23 Ms. Becker.

24 Anyone else that has served as a juror in a
25 criminal or civil case, as a member of a grand jury

1 in either state or federal court that we haven't
2 talked about this morning or this afternoon?

3 All right. I'm going to move to a
4 discussion a little bit about law enforcement. One
5 of the questions you had on your questionnaire that I
6 want to ask is, you know, whether you'd believe
7 police, law enforcement more than any other witness,
8 whether you would be more likely to believe police.
9 People answered it yes and some answered it no.

10 What I'd like to ask you, see if I can get
11 a little better reading of your understanding. We're
12 going to have quite a few law enforcement testifying
13 in this case. Is there anybody that, just because
14 they're law enforcement and they take the stand, are
15 going to believe them regardless of which side may
16 attack their credibility? Is there anybody that's
17 just going to say, "Because they're law enforcement,
18 I'm going to believe them"?

19 Is there anybody that, because they're law
20 enforcement, they've got a hostility to law
21 enforcement? Just because it's a police officer or
22 law enforcement, they're going to say, "I can't
23 believe them. I don't trust police at all in this
24 country, and I'm not going to believe that one."

25 Let me ask this question. Is everybody in

1 the room, when a law enforcement officer takes the
2 stand -- are you going to be able to listen to that
3 witness, sit in this jury box, judge the credibility,
4 look at them and make a determination as to whether
5 they're credible or not based on that individual law
6 enforcement testifying in front of you? Is there
7 anybody that will not be able to do that? Has
8 anybody come in with sort a presumption that the
9 police are going to tell the truth in this case and
10 you're going to give it more weight, more
11 credibility, than others? There is no right or wrong
12 answer here, but we're going to have a lot of police
13 officers.

14 Yes, Mr. Oldknow.

15 MR. OLDKNOW: Your Honor, I'm a member of a
16 fraternity that has a large number of police officers
17 and law enforcement officers in general. Although I
18 don't necessarily at face value take a police
19 officer's word, when I think about a police officer
20 as a brother and the obligations that we have taken
21 together, for a brother who's a Mason, I expect them
22 to tell the truth.

23 THE COURT: So you're talking about you've
24 got police officers that are in the Masons.

25 MR. OLDKNOW: Yes. They're widespread.

1 THE COURT: Are you saying if a police
2 officer that's a Mason took the stand, you'd believe
3 that brother more than anybody else?

4 MR. OLDKNOW: Yes, sir, I would.

5 THE COURT: And that's because of the
6 fellowship you have with your Masons?

7 MR. OLDKNOW: Yes, sir.

8 THE COURT: Now, if you didn't know this
9 person, it's just a police officer that the
10 defendants or the Government is calling as a witness,
11 you wouldn't have that sort of bias, because you
12 don't know that person?

13 MR. OLDKNOW: If I noticed a ring, a lapel
14 pin, anything that signified that to me, I would
15 recognize him as a brother.

16 THE COURT: But you're not going to treat a
17 police officer any different than any other witness?

18 MR. OLDKNOW: That's right.

19 THE COURT: Everybody agree with
20 Mr. Oldknow? Is that the way you are, that just
21 because they're a police officer --

22 MR. McNAIR: No.

23 THE COURT: Tell me about your views,
24 Mr. McNair, because I read your questionnaire, and
25 tell me what you think about police officers.

1 MR. McNAIR: I don't say that the police
2 officer is going to tell a lie. But from my own
3 experience with police officers as a child growing up
4 during the civil rights movement in Mississippi, I
5 have had guns pointed at me by police officers, I've
6 been slapped by police officers. You can't tell the
7 judge that, because it's not going to go well. And
8 as far as being a police officer, it carries no
9 weight at all.

10 THE COURT: Now, understanding you're an
11 African-American that grew up in the South, and you
12 and I look like we might be about the same age,
13 you're a little bit younger than me --

14 MR. McNAIR: No, you're older than I am.

15 THE COURT: I know those times. I know
16 those times. But what about this trial?

17 MR. McNAIR: It doesn't have any effect
18 on -- if I go around with that hatred on my back, it
19 will kill me.

20 THE COURT: Oh, I understand that. Are you
21 telling me if a police officer takes the stand,
22 despite your experience in the past and in the South,
23 you'll listen and judge their credibility just like
24 every other witness in the case?

25 MR. McNAIR: Just like anybody else, and

1 let the evidence speak for itself.

2 THE COURT: Thank you, Mr. McNair.

3 MR. McNAIR: Yes.

4 THE COURT: Anyone else?

5 All right. Let me ask some questions of
6 some of you individually, but I'm going to ask an
7 open question and see a raise of hands, because I
8 want to get some information that's on the
9 questionnaire, but I want to talk to you here in the
10 courtroom about it.

11 Have you or any member of your family or
12 any close friend ever been employed by a law
13 enforcement agency? Is there anybody that's had that
14 experience and contact with law enforcement?

15 All right. Ms. Quinones? No, Ms. Taylor?

16 MS. TAYLOR: Yes.

17 THE COURT: What's been your experience
18 with law enforcement, Ms. Taylor?

19 MS. TAYLOR: My father was a deputy
20 sheriff.

21 THE COURT: Where was he a deputy sheriff?

22 MS. TAYLOR: Mississippi, Harrison County;
23 Cedar Rapids, Iowa. And I think there was one other,
24 but I can't remember.

25 THE COURT: He didn't give Mr. McNair a

1 hard time?

2 MS. TAYLOR: No, I don't think so.

3 THE COURT: Ms. Taylor, is there anything
4 about your relationship with your father, his work,
5 or anything like that would keep you from being fair
6 and impartial to the parties in this case?

7 MS. TAYLOR: No.

8 THE COURT: Thank you, Ms. Taylor.

9 MS. TAYLOR: Thank you.

10 THE COURT: Who else had their hand up in
11 the jury box? Ms. Padilla?

12 MS. PADILLA: I've worked at the
13 Albuquerque Police, I've worked for the sheriff's
14 office, I've worked for the LCPD, and I've worked at
15 the detention center.

16 THE COURT: All right. Given your work,
17 what you've done in your life, is there anything
18 about your work that would keep you from being fair
19 and impartial to the parties in this case?

20 MS. PADILLA: No.

21 THE COURT: Thank you, Ms. Padilla.

22 Who else in the front row? We'll go in the
23 back, then. Anybody in the front row? Ms. Montes?
24 What's been your --

25 MS. MONTES: My niece was married to a

1 sheriff.

2 THE COURT: All right. Is there anything
3 about your relationship with her, with the sheriff
4 that -- their work --

5 MS. MONTES: No.

6 THE COURT: All right. You think you could
7 be fair and impartial to both sides?

8 MS. MONTES: Oh, yes.

9 THE COURT: Thank you, Ms. Montes.

10 In the back row, who had their hand up?
11 Anybody?

12 Let's go to Ms. Cator. What's been your
13 experience, relationship with law enforcement?

14 MS. CATOR: My domestic partner, boyfriend
15 runs NCICs at Metro, and one of our friends --

16 THE COURT: Currently?

17 MS. CATOR: -- retired, yes, sir. And a
18 close friend who's retired APD.

19 THE COURT: All right. Given those
20 relationships, friendships, what they do, anything
21 about their work, your relationship with them, that
22 would keep you from being fair and impartial to the
23 parties here?

24 MS. CATOR: No, sir. Absolutely not.

25 THE COURT: All right. Thank you.

1 Who else had their hands up? Ms. Decramer?
2 Mr. Oldknow?

3 MR. OLDKNOW: My cousin and uncle are both
4 retired police officers. My brother and his son, my
5 nephew, are both -- my brother is retired. He served
6 as military police, and my nephew is still active
7 military.

8 THE COURT: Anything about your
9 relationship with any of their work that would keep
10 you from being fair and impartial?

11 MR. OLDKNOW: No, sir.

12 THE COURT: Thank you, Mr. Oldknow.

13 Anybody else in the jury box? Let's go
14 back over here.

15 And is it Ms. Ortiz? You've got your hand
16 up.

17 MS. ORTIZ: Yes.

18 THE COURT: What's been your relationship
19 with law enforcement, Ms. Ortiz?

20 MS. ORTIZ: I have a brother that works
21 with Santa Fe Police Department. He's a sergeant.
22 And I'm currently working with Santa Fe Police
23 Department in the sheriff's office.

24 THE COURT: Okay. You're the dispatcher?

25 MS. ORTIZ: Yes.

1 THE COURT: All right. Anything about your
2 work, your relationship with your brother, that would
3 keep you from being fair and impartial to the parties
4 in this case?

5 MS. ORTIZ: No, Your Honor.

6 THE COURT: Thank you, Ms. Ortiz.

7 Anyone else over here that has it --
8 Mr. Youngblood?

9 MR. YOUNGBLOOD: Yes, sir. My father was a
10 policeman in Lubbock, Texas, and also a deputy
11 sheriff. And I know probably half the deputy
12 sheriffs in Lea County right now.

13 THE COURT: So you've got a lot of friends
14 on the police force in Lea County, had family in law
15 enforcement. Is there anything about your
16 relationship with them, what you know about what they
17 do, that would keep you from being fair and impartial
18 to the parties in this case?

19 MR. YOUNGBLOOD: Not that I know of.

20 THE COURT: Thank you, Mr. Youngblood. I
21 appreciate it.

22 Who else? Is that Mr. Phillips?

23 MR. PHILLIPS: My brother-in-law was the
24 undersheriff for Grant County.

25 THE COURT: Anything about your

1 relationship with him, his work, that would keep you
2 from being fair and impartial to the parties here?

3 MR. PHILLIPS: No.

4 THE COURT: Thank you, Mr. Phillips.

5 Who else had their hand up over here?

6 Anybody? Right behind you, is that Mr. Burton?

7 MR. BURTON: Yes. Friends, family are APD,
8 retired APD, sheriffs, a couple of federal agents,
9 friends of mine.

10 THE COURT: All right. Anything about your
11 relationship with those people, anything that they do
12 that would keep you from being fair and impartial to
13 the parties in this case?

14 MR. BURTON: No.

15 THE COURT: Thank you. I appreciate it.

16 Who else has their hand up? Is that
17 Mr. Gonzales or --

18 MR. JOHNSTON: Cameron Johnston.

19 THE COURT: Let's see.

20 MR. JOHNSTON: 37.

21 THE COURT: I keep having trouble with this
22 row. I'm sorry, what is your name, again?

23 MR. JOHNSTON: Cameron Johnston.

24 THE COURT: Mr. Johnston, what's been your
25 experience with law enforcement?

1 MR. JOHNSTON: I have a couple of friends
2 of mine that are guards at the detention center in
3 Delta, Colorado. And my wife's ex-husband is a state
4 trooper there.

5 THE COURT: Anything about your
6 relationship with them, anything that you know about
7 their jobs or anything that would keep you from being
8 fair and impartial to the parties in this case?

9 MR. JOHNSTON: No, sir.

10 THE COURT: Thank you, Mr. Johnston.
11 Who else over here has had some relation
12 with law enforcement? Anybody else? All right.
13 Let's see. Mr. Becerra?

14 MR. BECERRA: Yes, sir. I have a cousin
15 who is a Texas state trooper.

16 THE COURT: Okay.

17 MR. BECERRA: And a couple other cousins
18 are Hobbs police, Carlsbad police. A brother-in-law
19 in El Paso PD.

20 THE COURT: You've got a lot of family in
21 law enforcement?

22 MR. BECERRA: Yes, sir.

23 THE COURT: Is there anything about your
24 relationship with them, what they do, that would keep
25 you from being fair and impartial?

1 MR. BECERRA: No.

2 THE COURT: Do you think you could be fair
3 in this case?

4 MR. BECERRA: Yes.

5 THE COURT: All right. Thank you, Mr.
6 Becerra.

7 Anyone else over here that has a
8 relationship with law enforcement?

9 Okay. Let's go over to my left, your
10 right, and we'll start with --

11 MS. GARNANEZ: 20.

12 THE COURT: Ms. Garnanez.

13 MS. GARNANEZ: Yes, I have a brother that
14 is a criminal investigator for the Navajo Nation as
15 well as he works with a federal agent in Albuquerque.

16 THE COURT: What's his name?

17 MS. GARNANEZ: Malcolm Leslie.

18 THE COURT: I try a lot of cases up in the
19 north off the reservation, so I thought I might have
20 seen him. Anything about your relationship with him,
21 what he does, that would keep you from being fair and
22 impartial to the parties in this case?

23 MS. GARNANEZ: No.

24 THE COURT: Thank you, Ms. Garnanez.

25 Mr. McNair, you have some relationship with

1 law enforcement?

2 MR. McNAIR: Yes. I work at the police
3 department at White Sands, so I get a chance to see
4 all the area sheriffs, police. They all come through
5 for training. So I kind of like know faces when I
6 see them. I don't know all of their names, but I
7 know them if they come. We all talk.

8 THE COURT: Given what you know about what
9 they do, and what you do, your relationship with
10 them, do you think you could be fair and impartial
11 with all the parties in this case?

12 MR. McNAIR: I have no problem.

13 THE COURT: Thank you, Mr. McNair.

14 Who else had their hand up? Is that
15 Ms. Apodaca?

16 MS. HOURNBuckle: Hournbuckle.

17 THE COURT: Okay. Ms. Hournbuckle.

18 MS. HOURNBuckle: My husband was a police
19 officer in Mobile for a little over a year, and we
20 had friends there and also in Carlsbad who are law
21 enforcement.

22 THE COURT: Okay. Anything about their
23 work, your relationship with them that would keep you
24 from being fair and impartial?

25 MS. HOURNBuckle: No, sir.

1 THE COURT: Thank you, Ms. Hournbuckle.
2 Anyone else? Ms. Whitehead?

3 MS. WHITEHEAD: Yes. My significant other
4 is a retired State Police officer. I also have a
5 son-in-law who is a retired city detective. And I
6 have a brother-in-law who was a chief of police in
7 Santa Fe, Truth or Consequence, and now in Las
8 Cruces.

9 THE COURT: All right. Anything about what
10 they do, your relationship with them, that would keep
11 you from being fair and impartial for the parties in
12 this case?

13 MS. WHITEHEAD: No, Your Honor.

14 THE COURT: Thank you, Ms. Whitehead.

15 Who else had their hand up over here?

16 So we're going in the back. Ms. Taylor?

17 MS. TAYLOR: Yes. I have a son who is a
18 police officer, and I know all his officers that work
19 with him.

20 THE COURT: Where is he a police officer?

21 MS. TAYLOR: In Newton, Kansas, a small
22 town outside of Wichita.

23 THE COURT: Anything about your
24 relationship with your son, what he does, that would
25 keep you from being fair and impartial to the parties

1 here?

2 MS. TAYLOR: No.

3 THE COURT: Thank you, Ms. Taylor.

4 Anyone else on that row, when we go down
5 that row, so we can see where the mic is going?

6 All right. Is that Mr. Brimmer?

7 MR. BRIMMER: Yes.

8 THE COURT: Mr. Brimmer, what relationship
9 have you had with law enforcement?

10 MR. BRIMMER: I have an uncle out in Texas
11 who is a cop. And then I worked closely with several
12 security force members when I was in the military, as
13 well as several former service mates that went on to
14 be police in various areas of the country.

15 THE COURT: Anything about your work, your
16 relationship with those other folks that have been in
17 law enforcement that would keep you from being fair
18 and impartial to the parties in this case?

19 MR. BRIMMER: No, sir.

20 THE COURT: Thank you, Mr. Brimmer.

21 Anyone else on that row?

22 All right. Let's see. Is it Ms. Renee --
23 Ms. Gothard; right?

24 MS. GOTHARD: Yes, sir.

25 THE COURT: Ms. Gothard?

1 MS. GOTHARD: I have a really good friend
2 that is a sergeant with the Artesia Police
3 Department.

4 THE COURT: Okay. Anything about your
5 relationship with him or her that would keep you from
6 being fair and impartial to the parties here?

7 MS. GOTHARD: No, sir.

8 THE COURT: Thank you, Ms. Gothard.
9 Anyone else on that row?

10 How about on the back row? Anyone?

11 All right. Ms. Bush, what's been your
12 relationship with law enforcement?

13 MS. BUSH: I have a cousin who is a retired
14 deputy sheriff in Wichita Falls, Texas.

15 THE COURT: Anything about your
16 relationship with that individual or what that person
17 does that would keep you from being fair and
18 impartial here?

19 MS. BUSH: No.

20 THE COURT: Thank you, Ms. Bush.

21 Anyone else? Let's see. Yes. Ms. --

22 MS. WINSTON: Winston. My husband is a
23 federal law enforcement officer.

24 THE COURT: All right, Ms. Winston, where
25 is he, or what does he do?

1 MS. WINSTON: Border Patrol in Deming, New
2 Mexico.

3 THE COURT: Board Patrol. That's right.
4 Your husband is Border Patrol in Deming. Is there
5 anything about his work, your relationship with him,
6 that would keep you from being fair and impartial to
7 the parties here?

8 MS. WINSTON: No, sir.

9 THE COURT: Thank you, Ms. Winston.

10 Anyone else that we haven't -- there are
11 still some hands going up. I'm kind of losing track
12 of the row back there, so you may have to identify
13 yourself. Is that Ms. Chavez?

14 MS. COURTIER: Ms. Courtier.

15 THE COURT: Ms. Courtier. All right.

16 MS. COURTIER: I have an uncle who retired
17 on the police force.

18 THE COURT: All right. Anything about your
19 relationship with him or what he does that would keep
20 you from being fair and impartial to the parties in
21 this case?

22 MS. COURTIER: No, sir.

23 THE COURT: Thank you, Ms. Courtier.

24 Anyone else? Let me ask the question
25 again, just to see if it picks up anybody.

1 Have you or any member of your family or
2 any close friend ever been employed as a law
3 enforcement -- by a law enforcement agency? Anybody
4 had that experience that we haven't talked about?

5 All right. The next question. If you
6 answer yes or you don't understand the question or
7 you want to discuss it at the bench, please indicate
8 and you can come up and do it here at the bench. But
9 I want to get your relationship with the law and the
10 criminal justice system. So the question is: Have
11 you ever been involved in any court in a criminal
12 matter that concerned yourself, any member of your
13 family, or a close friend, either as a defendant, a
14 witness, or a victim? Anybody had that experience
15 with the criminal justice system?

16 All right, Ms. Montes. What's been your
17 experience with the criminal justice system?

18 MS. MONTES: My son.

19 THE COURT: What did he do, Ms. Montes?

20 MS. MONTES: What did he not do? He has
21 mental problems. And he -- like, burglaries,
22 shoplifting, stealing cars, heaven knows what else.

23 THE COURT: Okay. So you've had a son --
24 and many of us have had some children that do some
25 things. Is there anything about your experiences,

1 his experiences, that would keep you from being fair
2 and impartial to the parties in this case?

3 MS. MONTES: No.

4 THE COURT: All right. Thank you, Ms.
5 Montes.

6 Anybody else in the jury box that's had
7 experience?

8 Why don't we come down here to the end.
9 Ms. Benavidez, why don't you tell me what your
10 relationship with the criminal justice system is?

11 MS. BENAVIDEZ: That one is currently
12 ongoing.

13 THE COURT: Okay. In or out of the
14 facilities right now?

15 MS. BENAVIDEZ: Excuse me? It's with the
16 court.

17 THE COURT: Okay. And what is his
18 relationship with law enforcement or with the
19 criminal justice system?

20 MS. BENAVIDEZ: Nothing besides his
21 accusation of battery.

22 THE COURT: All right. Is there anything
23 about that ongoing that would keep you from being
24 fair and impartial to the parties in this case?

25 MS. BENAVIDEZ: Just how easy it was to

1 make a police report and to have to go through this
2 whole process with never being contacted about the
3 situation at all personally.

4 THE COURT: Okay. So he was accused of
5 assault?

6 MS. BENAVIDEZ: Correct.

7 THE COURT: And one of the things that
8 you're surprised about is how easy it was for him to
9 get charged?

10 MS. BENAVIDEZ: Correct.

11 THE COURT: Do you think that would keep
12 you from being impartial or fair to the parties that
13 are in this case?

14 MS. BENAVIDEZ: No.

15 THE COURT: Okay. Thank you, Ms.
16 Benavidez.

17 Anyone else in the jury box?

18 Let's see. Ms. Taylor? Are you going to
19 the back row? Mr. Compton? Mr. Besson?

20 MR. BESSON: Yes.

21 THE COURT: Mr. Besson, what's been your
22 relationship with the criminal justice system?

23 MR. BESSON: Many years ago I was arrested
24 and charged with receiving and concealing stolen
25 property. And charges were eventually dismissed.

1 THE COURT: Anything about that experience
2 that would keep you from being fair and impartial to
3 the parties in this case?

4 MR. BESSON: I don't think so.

5 THE COURT: All right. Thank you, Mr.
6 Besson.

7 Anybody else in the back row? Mr. Compton,
8 what's been your experience with the criminal justice
9 system?

10 MR. COMPTON: When I was 18, many years
11 ago, I was arrested for possession of marijuana.

12 THE COURT: Anything about that experience
13 that would keep you from being fair and impartial to
14 the parties in this case?

15 MR. COMPTON: I don't know. The charges
16 were dropped. This was in Phoenix, Maricopa County
17 sheriffs. They were pretty heavy-handed in their
18 treatment of me.

19 THE COURT: How about the parties here?
20 There are not Arizona folks involved in this case
21 that I know of.

22 MR. COMPTON: Not likely, as a general
23 rule. But based on my general experience with them.
24 I mean, the charges were dropped. It was nothing.
25 But putting a baton across my throat and forcing me

1 back on the ground, and there wasn't even -- the case
2 was dismissed.

3 THE COURT: Understanding that you don't
4 like police in general and you had that experience
5 with the criminal justice system, the men in this
6 room and the United States at this table, do you
7 think you could be fair and impartial to them?

8 MR. COMPTON: Sure.

9 THE COURT: Thank you, Mr. Compton.

10 Anyone else in this row that had -- yes,
11 Mr. --

12 MR. GONZALES: Gonzales. Well, I've been
13 arrested a few times. I've never been to a trial or
14 anything like that.

15 THE COURT: Anything about your experiences
16 with police, the criminal justice system, that would
17 keep you from being fair and impartial to these
18 parties, Mr. Gonzales?

19 MR. GONZALES: No.

20 THE COURT: Thank you, Mr. Gonzales.

21 Ms. Cator?

22 MS. CATOR: Yes, sir. Six, seven years ago
23 my boyfriend and I were involved in a road rage
24 situation. And although we were the ones being
25 chased, he ended up taking out a gun. Never pulled

1 it on anybody, but was still arrested, taken in, we
2 had to go through everything. But no, sir, I have my
3 own mind, thank you.

4 THE COURT: Okay. So you think you could
5 be fair and impartial to the parties here?

6 MS. CATOR: Yes, sir.

7 THE COURT: All right. Thank you,
8 Ms. Cator.

9 Anybody else in the jury box have any
10 relationship with the criminal justice system?

11 All right. Ms. Harris, what's been your
12 relationship with the criminal justice system?

13 MS. HARRIS: About a year and a half ago I
14 had a friend who was convicted of possession of
15 cocaine. And he was charged with that in Idaho, and
16 he's serving probation right now.

17 THE COURT: All right. Anything about his
18 experience or your relationship with him that would
19 keep you from being fair and impartial to the parties
20 in this case?

21 MS. HARRIS: No, sir.

22 THE COURT: Thank you, Ms. Harris.

23 Let's go -- if there's nobody else in the
24 jury box, we're going to go back here. Anybody have
25 any hands up, relationship with law enforcement? Mr.

1 Johnston? I got it right that time, didn't I?

2 MR. JOHNSTON: Back in '94 I was a
3 defendant for a civil case in a dog's barking,
4 excessive noise, and we pled that out and I did some
5 community service and paid a fine.

6 THE COURT: All right. Hold on just a
7 second.

8 Mr. Johnston, anything about that
9 experience that would keep you from being fair and
10 impartial to the parties in this case?

11 MR. JOHNSTON: No, sir.

12 THE COURT: All right. Thank you, Mr.
13 Johnston.

14 Anyone else back over on this side that has
15 a relationship?

16 Let's go to the end of the row. Is that
17 Ms. Ortiz? Did you have your hand up? Are you on
18 the row behind? Is that Mr. Houghtalin?

19 MR. HOUGHTALIN: Yes.

20 THE COURT: What's been your relationship
21 with the criminal justice system?

22 MR. HOUGHTALIN: Back in '98, in Texas, I
23 had a plea agreement. It was adjudicated deferred.
24 I was charged with possession of a prohibited weapon,
25 which I was given six years of deferred probation.

1 If I completed it, it would be expunged from my
2 record, which was done. I have all the paperwork
3 that I completed it, did my 500 hours of community
4 service, \$5,000 fine. I got accused of driving under
5 the influence by two police officers, which I was
6 under medication at the time, and they lost my blood.
7 I pled no contest, they dropped the fine, and I
8 haven't been in the system for 15 years.

9 THE COURT: All right. Anything about that
10 experience, Mr. Houghtalin, that would keep you from
11 being fair and impartial to the parties in this case?

12 MR. HOUGHTALIN: I've been out of trouble
13 for 15 years, so yeah, it did impact my life.

14 THE COURT: Do you think you can be fair
15 and impartial to these people in the room?

16 MR. HOUGHTALIN: Of course.

17 THE COURT: Thank you, Mr. Houghtalin.

18 Anyone else on this side of the room?

19 Let's go to Ms. Gonzalez. Is it McAdams? Ms.

20 McAdams?

21 MS. MCADAMS: Yes. My nephew was convicted
22 of murder about 30 years ago.

23 THE COURT: All right. And anything about
24 that experience that would keep you from being fair
25 and impartial to the parties in this case?

1 MS. MCADAMS: Yes, I can.

2 THE COURT: Could you be fair?

3 MS. MCADAMS: Yes.

4 THE COURT: Okay. Thank you, Ms. McAdams.

5 Anyone else over on this side of the room
6 that's had some experience and relationship to the
7 criminal justice system?

8 How about over on this side?

9 All right. Let's go on the front row.
10 Let's try to take -- is that Ms. Apodaca? What's
11 been your experience with the criminal justice
12 system?

13 MS. HOURNBuckle: It's Hournbuckle.

14 THE COURT: Ms. Hournbuckle. I'm sorry.

15 MS. HOURNBuckle: We were rear-ended by a
16 drunk who never put on the brakes and we had to go to
17 court on that. And are you wanting to know, like,
18 relatives?

19 THE COURT: Yeah, I guess the way I would
20 define it is, if it's either you or a close member of
21 your family, real close friend, members of your
22 family. So I think I better hear that.

23 MS. HOURNBuckle: Okay. Well, I have a
24 niece that's in prison for murder. That's a long
25 story. But anyway -- and my brother, who has mental

1 health issues, is in prison. He went off his meds
2 and went down the black hole. So other than almost
3 running a police officer off the road one day, he was
4 on a motorcycle and I didn't see him, so I paid my
5 fine. But that's all.

6 THE COURT: All right. So you've had some
7 family members that have had some relationship with
8 the criminal justice system. You had a fine.
9 Anything about those experiences, your relationship
10 with those members of your family, that would keep
11 you from being fair and impartial to the parties in
12 this case?

13 MS. HOURNBuckle: No, sir.

14 THE COURT: All right. Thank you, Ms.
15 Hournbuckle.

16 Anyone else? Ms. Taylor?

17 MS. TAYLOR: I have a brother who is in
18 prison for murder. He's 15 years younger than me,
19 and it happened when he was 21 and I was in my 40s.
20 I didn't go to the trial, don't know about it, but I
21 have visited him.

22 THE COURT: Anything about that experience,
23 your relationship with him, that would keep you from
24 being fair and impartial to the parties here?

25 MS. TAYLOR: No. My son keeps me on the

1 other side.

2 THE COURT: Thank you, Ms. Taylor.

3 Anyone else over on this side of the room?

4 Yes, Ms. Huerta?

5 MS. HUERTA: I have a nephew that did time
6 for armed robbery. And a really good friend, her son
7 just got out of prison for murder.

8 THE COURT: All right. Anything about your
9 relationship with them that would keep you from
10 being -- what you know about that -- that would keep
11 you from being fair and impartial to the parties in
12 this case?

13 MS. HUERTA: No.

14 THE COURT: All right, thank you,
15 Ms. Huerta.

16 Who else? Anybody else over there?

17 Ms. Yatsattie?

18 MS. YATSATTIE: Yes, my vehicle was stolen
19 from my property, and it actually happened because
20 somebody else came and broke into my cousin's car,
21 who I live with. They stole my keys and then went
22 and stole my vehicle. Just two weeks ago I found out
23 that they're not going to be prosecuted because there
24 is nothing that the DA can do about it. And they
25 have a history of criminal activity.

1 THE COURT: All right. Anything about your
2 experience that would keep you from being fair and
3 impartial to the parties in this case?

4 MS. YATSATTIE: Honestly, it upsets me that
5 repeat criminals just get away with it because there
6 is nothing the legal system can do about it.

7 THE COURT: All right. I understand that
8 people have strong feelings sometimes about the
9 criminal justice system, and maybe the punishment is
10 not strong. Your job won't be to decide, if there is
11 any sort of conviction here, any sort of punishment.
12 That won't be something you decide. You'll just be
13 deciding whether, applying the law to the facts, they
14 should be guilty or not guilty. Could you do that
15 job and be fair and impartial to both sides in this
16 case?

17 MS. YATSATTIE: Potentially. I mean, if
18 somebody usually has a criminal background, that
19 usually means they've done it before and it wouldn't
20 stop them from doing it again.

21 THE COURT: Well, that may be. But right
22 now, these men over here are presumed innocent. So
23 you haven't heard any evidence or any sort of -- any
24 of the evidence that either the Government or the
25 defendants may want to put on. Could you keep a very

1 open mind, a fully open mind, and not make any
2 decisions before you hear the evidence and my
3 instructions?

4 MS. YATSATTIE: Potentially. I'm going to
5 be honest. Potentially.

6 THE COURT: When you say "potentially,"
7 probably the parties are going to want more than
8 that. Can you assure me that you'll just listen,
9 you'll put your concerns about the criminal justice
10 system -- which you can have; nobody is asking you to
11 give them up -- but can you put them aside and just
12 listen to the evidence and my instructions and tell
13 the parties and the Court that you would be able
14 to --

15 MS. YATSATTIE: I think so, yes.

16 THE COURT: Thank you, Ms. Yatsattie.

17 Anyone else over here that's had a
18 relationship with the criminal justice system?

19 All right. Let me ask the question again,
20 just to see if it picks up anybody. Have you ever
21 been involved in any court in a criminal matter that
22 concerned yourself, any member of your family, or a
23 close friend, either as a defendant, a witness, or a
24 victim? Anybody had that experience with the
25 criminal justice system that we haven't talked about?

1 MS. YATSATTIE: I'm sorry, I also forgot to
2 mention that I had a first cousin who was in prison
3 for about two and a half years for assault with --
4 using his vehicle.

5 THE COURT: All right. Anything about that
6 experience that would keep you from being fair and
7 impartial?

8 MS. YATSATTIE: No, I didn't know about the
9 case or anything like that. I never went to visit
10 him or anything like that.

11 THE COURT: Thank you, Ms. Yatsattie.

12 Anyone else? Have you ever been involved
13 in any court in a criminal matter that concerned
14 yourself -- remember, we're talking about criminal
15 matters here -- that involved yourself, any member of
16 your family, or close friend, either as a defendant,
17 witness, or a victim that we haven't talked about?

18 All right. Is that -- I'm having a little
19 hard -- is that Ms. Bush? I can't see whose hand is
20 it. Is that Ms. Bush?

21 MS. SMITH: No. It's Smith.

22 THE COURT: All right.

23 MS. SMITH: Yes, I had a niece that
24 committed murder, and she's in prison for most of her
25 life now.

1 THE COURT: Is there anything about that
2 experience that would keep you from being fair and
3 impartial to the parties in this case?

4 MS. SMITH: No, sir.

5 THE COURT: All right. Anyone else? Have
6 you ever been involved in any court in a criminal
7 matter that concerned yourself, any family member of
8 your family or close friend as a witness or as a
9 victim? Mr. McNair?

10 MR. McNAIR: When I was a court reporter --
11 I was a court reporter in the Army -- I had a kid
12 working for me that was charged with attempted
13 murder, and I had to be a witness for that.

14 THE COURT: Okay. Anything about that
15 experience that would keep you from being fair and
16 impartial to the parties in this case?

17 MR. McNAIR: No, it doesn't bother me,
18 because he was told what not to do.

19 THE COURT: All right. Thank you, Mr.
20 McNair.

21 Anyone else? Have you ever been involved
22 in any court in a criminal matter that concerned
23 yourself, any member of your family or a close
24 friend, either as a defendant, a witness, or a
25 victim? Anybody had that experience?

1 Mr. Youngblood?

2 MR. YOUNGBLOOD: Yes. Two and a half years
3 ago my son-in-law was killed by a drunk driver under
4 the influence of drugs.

5 THE COURT: Did that go through the
6 criminal justice system?

7 MR. YOUNGBLOOD: Yes, it did. They pled
8 out.

9 THE COURT: Anything about that experience
10 that would keep you from being fair and impartial to
11 the parties in this case?

12 MR. YOUNGBLOOD: Not that I'm aware of.

13 THE COURT: Thank you, Mr. Youngblood.

14 Anyone else ever been involved in any court
15 in a criminal matter that concerned yourself, any
16 member of your family, or a close friend, either as a
17 defendant, a witness or a victim?

18 All right. I want to talk a little bit
19 about drugs. You may hear some evidence and
20 discussions of drugs in this case, and I'm talking
21 specifically about illegal drugs or narcotics. And
22 the question is: Have you ever had any experience
23 involving yourself, any member of your family, or a
24 close friend that relates to the use or possession of
25 illegal drugs or narcotics? Anybody had that

1 experience that we haven't already kind of talked
2 about? Some of it we've kind of talked about.

3 I'll start with you, Ms. Montes. Let's
4 talk specifically about drugs. What's been your
5 experience or family's experience with it?

6 MS. MONTES: I have a son-in-law that's
7 currently going through trial for drugs, and my
8 daughter was with him.

9 THE COURT: Anything about that ongoing
10 experience and their possible possession of illegal
11 drugs or narcotics that would keep you from being
12 fair and impartial?

13 MS. MONTES: Oh, no.

14 THE COURT: Thank you, Ms. Montes.

15 Mr. Besson, did you have your hand up? Why
16 don't you hand it back there to Mr. Besson, and then
17 we'll come down.

18 MR. BESSON: Yes, sir. My brother served
19 time for manufacturing methamphetamines.

20 THE COURT: Anything about that experience
21 and your relationship with your brother that would
22 keep you from being fair and impartial to the parties
23 in this case?

24 MR. BESSON: No, sir.

25 THE COURT: Thank you, Mr. Besson.

1 Who else? Let's go to the front row here.
2 Is that Ms. Quinones?

3 MS. QUINONES: Yes, Quinones. Your Honor,
4 my brother was in prison in Illinois for drugs. He
5 was in prison for nine years, and he passed away two
6 and a half years ago.

7 THE COURT: Was he in prison when he passed
8 away?

9 MS. QUINONES: No. He got out of prison,
10 and he passed away two years later.

11 THE COURT: Anything about your
12 relationship with your brother, what he did, accused
13 of doing, that would keep you from being fair and
14 impartial to the parties in this case?

15 MS. QUINONES: No, sir. Not at all.

16 THE COURT: Thank you, Ms. Quinones.

17 Who else had their hand up? Let's go in
18 the back row. Mr. Gonzales?

19 MR. GONZALES: Yes, my uncle and some close
20 friends and stuff have also been charged with drugs,
21 as well.

22 THE COURT: Anything about your
23 relationship with them, what they did, the charges
24 that would prevent you from being fair and impartial?

25 MR. GONZALES: No, that don't affect me.

1 THE COURT: Thank you, Mr. Gonzales.

2 Let's go down here to Mr. Oldknow.

3 Mr. Oldknow, what's been your relationship?

4 MR. OLDKNOW: I'm a child of the '60s, so
5 it's been pretty widespread throughout much of my
6 life. My mother's boyfriend was the vice president
7 of a motorcycle gang back east. Drugs were
8 prevalent. I had an employer back in the mid-1980s
9 up in Santa Fe who was busted for a couple million
10 dollars worth of cocaine. So it's been fairly
11 widespread.

12 THE COURT: Thank you, Mr. Oldknow. Is
13 there anything about those experiences, those people
14 and your relationship with them that would keep you
15 from being fair and impartial to the parties in this
16 case?

17 MR. OLDKNOW: Not at all.

18 THE COURT: Thank you, Mr. Oldknow.

19 Anyone else in the jury box? Ms. Cator?

20 MS. CATOR: Yes, sir. My daughter is an
21 addict.

22 THE COURT: Anything about your
23 relationship with her, her problems, that would keep
24 you from being fair and impartial to the parties?

25 MS. CATOR: No, sir.

1 THE COURT: Thank you, Ms. Cator.

2 Let's see. Anyone else in the jury box?

3 All right, Ms. Harris, what's been your relationship?

4 MS. HARRIS: I already mentioned my friend
5 who is serving probation for possession. My cousin,
6 about a year and a half ago, died from an overdose of
7 fentanyl.

8 THE COURT: Anything about those
9 experiences that would keep you from being fair and
10 impartial to the parties in this case?

11 MS. HARRIS: No, sir.

12 THE COURT: All right. Thank you,
13 Ms. Harris.

14 Anyone else in the jury box?

15 All right. Let go back over here. Let's
16 start with Ms. Becker down at the end. Let's go with
17 Ms. Becker down at the end.

18 MS. BECKER: My sister was a dealer for
19 methamphetamines for about eight years. She had been
20 arrested several times. She was basically in Reno
21 for most of this, and I didn't have a lot of real
22 contact with her during that time, but she's gone
23 through rehab and she's on a really great road now
24 so.

25 THE COURT: Okay. Anything about that

1 experience, your relationship with her, that would
2 keep you from being fair and impartial to the parties
3 here?

4 MS. BECKER: No.

5 THE COURT: Thank you, Ms. Becker.

6 Mr. Houghtalin, what's your experience
7 with --

8 MR. HOUGHTALIN: I have a sister that's
9 been arrested twice for bringing over 150 pounds of
10 marijuana twice. She pled guilty, did her time, she
11 got her kids back, she got her life back on track.

12 My dad has been a heroin addict for 30
13 years. But when you're a heroin addict, you're never
14 home, so I never get to see him, so I don't know much
15 about him. So other than that, that's it.

16 THE COURT: All right. Is there anything
17 about your relationship with your dad and with your
18 sister, what they've experienced, that would keep you
19 from being fair and impartial to the parties in this
20 case?

21 MR. HOUGHTALIN: No. My sister did her
22 time and she's doing way better than she was before.
23 Like I said, my dad has never been in my life, so
24 it's not a problem for me with him.

25 THE COURT: Thank you, Mr. Houghtalin.

1 Who else maybe over here has a
2 relationship. Let's see. Mr. Billings? I'm getting
3 it right? Mr. Billings?

4 MR. BILLINGS: Yes, sir. My sister was --
5 she's had drug and alcohol problems. She's in rehab
6 right now.

7 I have an uncle who has been involved in
8 drugs for the last 40, 50 years, and his best friend
9 was also involved in all kinds of -- Hell's Angels,
10 so I deal with that. So I've had some scary times
11 dealing with that, dealing with members of that.

12 THE COURT: Is there anything about your
13 relationship with them, what they've done, that would
14 keep you from being fair and impartial to the parties
15 in this case?

16 MR. BILLINGS: I'm more impartial with the
17 gang member affiliation.

18 THE COURT: You're impartial? Do you think
19 you can be fair and impartial about those things?

20 MR. BILLINGS: Right.

21 THE COURT: Okay. Thank you, Mr. Billings.

22 Anyone else over on this side? Let's see.
23 Mr. Laroche?

24 MR. LAROCHE: Yes, sir. Multiple friends
25 and acquaintances have sold drugs or been charged

1 with selling drugs.

2 THE COURT: All right. Anything about your
3 relationship with them, what they've done, the
4 charges, the criminal justice system, anything that
5 would keep you from being fair and impartial to the
6 parties in this case?

7 MR. LAROCHE: I don't believe so.

8 THE COURT: Thank you, Mr. Laroche.

9 Anyone else over here, on that row or
10 anything?

11 Let's go over on this side. Let's go to
12 the back on this. Let me see if I can get it. Is
13 that Mr. Bair?

14 MR. BAXA: It's Mr. Baxa.

15 THE COURT: Mr. Baxa. Okay. Mr. Baxa.

16 MR. BAXA: I happen to be friends with a
17 lot of stupid people and I know that they all -- or
18 they used to, at least -- I haven't spoken to them
19 for a while -- partaken marijuana. And none of them
20 have been arrested or caught or anything like that,
21 but you know, I just happen to know them as friends
22 and know that they have partaken in that. But I
23 would say that I may be biased in believing, as I
24 personally believe, that even though federally it is
25 still seen as an illegal Type 1 substance, that I

1 believe marijuana should be legalized. And if any of
2 the defendants were brought up on charges of in
3 possession of specifically marijuana, I personally
4 don't believe that is an illegal action even though
5 it is seen as illegal. So I would be biased on that,
6 and I just wanted to clarify that specifically.

7 THE COURT: Okay. And I read you the
8 charges here.

9 MR. BAXA: Right, of course.

10 THE COURT: Not for drug possession. But
11 counsel may want to elaborate on that. But given the
12 charges here, you can be fair and impartial to both
13 sides, given what you know about the case?

14 MR. BAXA: Yes.

15 THE COURT: And there is nothing about your
16 experiences that you're relating here that would keep
17 you from being fair and impartial?

18 MR. BAXA: No, I'm fair and impartial.

19 THE COURT: Certainly you have every right
20 to have views on the legalization, the
21 nonlegalization. But the instructions I give you on
22 the law, regardless of whether you agree with them or
23 disagree it's the law, you could follow those?

24 MR. BAXA: Yes, sir.

25 THE COURT: All right. Thank you, Mr.

1 Baxa.

2 Anyone else over here that's had some --
3 let's go to Mr. McNair on the front row, then I'll
4 work my way back.

5 Mr. McNair, did you have your hand up? I
6 saw a hand behind you. So --

7 MR. McNAIR: I'll tell his story if you
8 want.

9 THE COURT: I just saw a hand come up.
10 Mr. Brimmer?

11 MR. BRIMMER: Yeah, like other people said,
12 I know a lot of people that are former and current
13 users, one of which uses medically and some people I
14 know from my time in the service that were removed
15 under other-than-honorable conditions from the
16 service for drug use.

17 THE COURT: Having that experience, those
18 relationships, do you think you could still be fair
19 and impartial to the parties in this case?

20 MR. BRIMMER: I believe so, yes.

21 THE COURT: Thank you, Mr. Brimmer.

22 Who else had their hand up? Right there.

23 Ms. Yatsattie.

24 MS. YATSATTIE: Yes. I have several
25 friends and cousins who use marijuana and other

1 drugs, recreational, and deal, who surprisingly
2 haven't got caught. But specifically I've had a
3 former domestic partner. His older son was caught
4 with possession and intent to distribute, and is
5 currently serving probation.

6 In addition, I have another cousin who has
7 been caught dealing, and I believe he has a bench
8 warrant out on him. We don't know where he's at.

9 And then finally, I have a second cousin
10 who was caught dealing, and then eventually we
11 believe was murdered from a drug deal gone wrong.

12 THE COURT: All right. So you've had some
13 bad experience or tough experiences with people that
14 you know with illegal drugs.

15 MS. YATSATTIE: Yes, sir.

16 THE COURT: Can you be fair and impartial
17 to the parties in this case, all sides, all parties?

18 MS. YATSATTIE: I believe so. Like I said,
19 most of the time they were just being stupid and
20 dumb, so...

21 THE COURT: All right. Thank you, Ms.
22 Yatsattie.

23 Anyone else over here?

24 All right. Let me ask the question again
25 to see if anybody has been sitting there thinking of

1 anything.

2 Have you had any experience involving
3 yourself, any member of your family, or any close
4 friend that relates to the use or possession of
5 illegal drugs or narcotics that we haven't already
6 talked about? Anybody had that experience?

7 All right. Let me step back and ask you a
8 real general question, but it's a very important
9 question, see if it picks anything up. If you are
10 selected to sit on this case, will you be able to
11 render a verdict solely on the evidence presented in
12 this courtroom at the trial and in the context of the
13 law as I will give it to you in my instructions? Can
14 you disregard any other ideas, notions, or beliefs
15 about the law that you may have encountered in your
16 life? Can you put all that aside and just focus on
17 the evidence in this courtroom, the instructions I
18 give you, and only use those things to reach your
19 verdict? Is there anybody that can't do that? If
20 they've got some notion or idea about the law that
21 they think would be superior to my instructions or to
22 the evidence in this case? So everybody thinks they
23 can just listen to the evidence and just listen to my
24 instructions, and that's the way they reach their
25 verdict?

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1 All right. Let me ask another question.
2 And we've touched on this a lot, so we may not pick
3 up anything new, but I just want to make sure. Is
4 there any member of the panel who has any -- yes,
5 Mr. Oldknow?

6 MR. OLDKNOW: Your Honor, just a reference
7 back to the consultation that we had at the bench.

8 THE COURT: All right. And I recall that,
9 and I understand what we talked about.

10 Anyone else that, if they're selected to
11 sit on the case, will you be able to render a verdict
12 solely on the evidence presented here in this
13 courtroom and in the context of the law as I'll give
14 it to you in my instruction and you'll be able to
15 disregard any other ideas or notions or beliefs about
16 the law that you may have encountered in your life or
17 you come to that conclusion? Anybody that can't just
18 focus on the evidence in this courtroom and the law
19 as I'll give it in my instructions? Anybody can't do
20 that?

21 All right. Let me ask again, this is a
22 question that may not pick anything up new, but I
23 just want to give anybody a chance if they've been
24 sitting there thinking about it. Is there any member
25 of the panel who has any special disability or

1 problem that would make serving as a member of this
2 jury difficult or impossible that we haven't already
3 talked about? All right, Ms. Benavidez, what --

4 MS. BENAVIDEZ: I failed to mention it
5 earlier, but I have a work travel booked for February
6 4, returning on February 10th, and the flights are
7 nonrefundable per the work requirement.

8 THE COURT: Thank you, Ms. Benavidez.

9 Anyone else that's sitting there and --
10 yes, Mr. Gonzales.

11 MR. GONZALES: Yes, I have a medical
12 condition in my back. I have a bulging disc and an
13 irritated nerve that runs into my right leg. Sitting
14 down for long periods of time aggravates it. I just
15 think it's just going to be -- it's not going to work
16 for me, because I just --

17 THE COURT: And I should have mentioned
18 this earlier. But if you were able to stand anytime
19 you needed to, particularly if we put you back
20 there --

21 MR. GONZALES: Yes. I mean, if I can sit
22 and stand, as long as I can, you know --

23 THE COURT: And that goes for anybody. If
24 anybody needs to stand or something, don't hesitate
25 to do it. And we'll try to take breaks regularly.

1 So do you think with that, you'd be able to serve?

2 MR. GONZALES: Yes.

3 THE COURT: Thank you, Mr. Gonzales.

4 Anyone else who's been sitting there and thinking of
5 something? Is that Mr. Brimmer or Mr. McNair? I
6 think it's Mr. Brimmer's arm.

7 MR. BRIMMER: Can I talk to you at the
8 bench?

9 THE COURT: Come on up.

10 Anyone else that's been sitting there and
11 thinking that they have some special disability or
12 problem? Let's see. Is that Ms. Ortiz? No.
13 Ms. Liebhart? What special problem or disability do
14 you have?

15 MS. LIEBHART: It's pretty simple. I just
16 had an injury last year, fairly minor, but I have to
17 be seated on a cushion. I can't sit on hard
18 surfaces, so I have a cushion here.

19 THE COURT: If you're selected for the
20 jury, you'll be in the jury box, and those chairs are
21 a lot more comfortable than that.

22 MS. LIEBHART: That sounds good.

23 THE COURT: All right. You think as long
24 as you've got a cushion, you'll be all right,
25 Ms. Liebhart?

1 MS. LIEBHART: I'm sorry, yeah.

2 THE COURT: As long as you have a cushion,
3 you think you'll be okay?

4 MS. LIEBHART: Yeah.

5 THE COURT: All right. Thank you,
6 Ms. Liebhart.

7 Mr. Youngblood?

8 MR. YOUNGBLOOD: Yes, sir. I've got DVTs
9 in both legs, which is deep vein thrombosis. The
10 femoral veins in both legs have blood clots in them,
11 so I have to walk a lot during the day.

12 THE COURT: Well, you've kind of gotten a
13 little taste of -- we take breaks and you can stand
14 anytime. Do you think with that you'll be okay?

15 MR. YOUNGBLOOD: As long as I can stand and
16 walk, walk just a little bit, I'll be okay. I just
17 wanted you to be beware of it.

18 THE COURT: Thank you, Mr. Youngblood.

19 Anyone else on the panel that has any
20 special disability or problem that would make serving
21 as a member of this jury difficult or impossible that
22 we haven't already talked about?

23 All right. Mr. Brimmer, why don't you come
24 up here, and the attorneys come up here as well.

25 (The following proceedings were held at the

1 bench.)

2 THE COURT: All right, Mr. Brimmer. What
3 special disability or problem do you have?

4 MR. BRIMMER: I have -- I'm not sure how it
5 will affect --

6 THE COURT: Okay.

7 MR. BRIMMER: But I do suffer from
8 depression, fairly mild to severe, depending on the
9 day or week, you know.

10 THE COURT: Do you take something?

11 MR. BRIMMER: I don't take any medication,
12 but I do currently receive disability from the
13 military for it.

14 THE COURT: Okay.

15 MR. BRIMMER: And it's just because, I
16 mean, I didn't know until today how long we would be
17 here. If it is the four-to-eight-week span, there is
18 a decent chance there I'll have a depressive episode,
19 and I don't know how it would affect my judgment
20 here.

21 THE COURT: All right. Mr. Beck, any
22 questions of Mr. Brimmer?

23 MR. BECK: Yes, and thank you for being
24 candid with us up here. Your depression episodes --
25 so it sounds to me like you anticipate if this trial

1 has six to eight weeks, would you encounter a
2 depressive episode?

3 MR. BRIMMER: Right.

4 MR. BECK: And during those depressive
5 episodes, is it hard for you for understand sort
6 of -- let me rephrase that. Would it be hard for
7 you, sitting in the courtroom, to understand and
8 analyze the proof and the evidence being presented?

9 MR. BRIMMER: Probably no. I've never
10 really had to, during a depressive episode. I know
11 that it mostly just kind of affects as far as
12 melancholy, lethargy, sometimes irritability. I've
13 never been in a situation where I had a depressive
14 episode so I don't know how that would work.

15 MR. BECK: If you do have these -- and
16 again, it's probably not the easiest thing to talk
17 about. If you do have these depressive episodes, how
18 do you deal with them day to day?

19 MR. BRIMMER: Generally, I have self-care
20 stuff that I do throughout the week, you know, with
21 friends, hang out with friends, stuff like that,
22 but...

23 MR. BECK: And you're not from the Las
24 Cruces area?

25 MR. BRIMMER: No. I live in Albuquerque.

1 MR. BECK: Okay. And so knowing that I
2 think that the trial will likely go from about 8:30
3 in the morning on Monday until 5:00, Monday through
4 Friday, so if you did travel back, that would
5 probably be on the weekends; would that present a
6 hardship for you in this case?

7 MR. BRIMMER: Traveling back and forth
8 almost every week would be a pain in the ass. That's
9 the...

10 MR. BECK: I understand that. I think the
11 Judge has talked about --

12 MR. BRIMMER: As far as travel, that
13 wouldn't cause a hardship any more than anyone else
14 that lives an equal distance away.

15 MR. BECK: So as the judge was talking
16 about, you will have an important role to play. Do
17 you think even if this trial goes six to eight weeks,
18 would you be all right and comfortable being put on
19 the jury if you were selected?

20 MR. BRIMMER: I mean, I can say I'll try.
21 That's that. I just know that, like I said, when I
22 have the episodes, I can zone out and stuff like
23 that, not exactly always be hearing, you know.

24 MR. BECK: Right.

25 MR. BRIMMER: So that's -- I mean, if I

1 zone out in the middle of something and miss half a
2 day's worth of information...

3 MR. BECK: I appreciate that. And as I
4 think you and I were talking about that earlier, you
5 said you could understand the evidence presented?

6 MR. BRIMMER: Yeah, if I'm actually paying
7 attention, I pick it up. I can generally understand
8 it. It's just whether or not I actually pick it up
9 or not, you know.

10 MR. BECK: Right. So I guess -- I'm sorry.
11 My fault in the question. When you go through these
12 sort of depression states, do you have a hard time
13 paying attention, to where you won't be able to pay
14 attention to what's going on?

15 MR. BRIMMER: Yes, I have a difficult time
16 paying attention. It's bad enough -- as a child I
17 was diagnosed with ADD, and it was noticeable at
18 different points throughout my military career, so...

19 MR. BECK: Okay. So do you think that over
20 the course of this six-to-eight-week trial there
21 would be periods of time in which you simply couldn't
22 pay attention to what was going on in the courtroom?

23 MR. BRIMMER: Maybe. I'm sorry. It's one
24 of those things that really depends on a lot of the
25 other circumstances.

1 MR. BECK: Sure. So it sounds to me
2 like --

3 MR. BRIMMER: There's a lot of
4 uncertainties, because I've never been in a situation
5 like this before.

6 MR. BECK: Right.

7 MR. BRIMMER: I've been in high-stress
8 situations. I can deal with the stress.

9 MR. BECK: I hope you're not stressed out
10 yet. It's a long day.

11 MR. BRIMMER: Just the lull. That's what
12 gets me.

13 MR. BECK: So it sounds to me like you
14 think -- I mean, given all that we've talked about
15 that we've been through here, do you think it's
16 possible -- do you think you could sit as a potential
17 juror on this case and be all right listening to the
18 evidence?

19 MR. BRIMMER: I honestly don't know.

20 MR. BECK: Okay.

21 MR. BRIMMER: And I don't want to say yes
22 and then screw it up later.

23 MR. BECK: Sure. Sure. I appreciate your
24 candor, and I think that's all the questions I have.

25 THE COURT: Thank you, Mr. Beck.

1 Ms. Duncan.

2 MS. DUNCAN: Your depression: Is it
3 affected at all by your stress level?

4 MR. BRIMMER: It can be. I mean, my stress
5 level isn't always a big issue. Like I said, I was
6 in the military in a very high-stress job. That was
7 fine in the military, so you know -- but I don't
8 foresee something like this being incredibly
9 stressful considering what I did in the military. I
10 can't talk too much about it, so...

11 MS. DUNCAN: Sure. I won't ask you
12 specifically what you did.

13 MR. BRIMMER: But just suffice to say I was
14 in a job that was high stress not because of what's
15 always going on, but because of what you're doing.
16 That's not a little issue. It's just that, you know,
17 it can happen, you know -- it can happen at the drop
18 of a hat. You know, one day, one minute, I'm great;
19 and then all of a sudden just like falling off a
20 cliff.

21 MS. DUNCAN: So it sounds like it's
22 unexpected; you're kind of going along --

23 MR. BRIMMER: Sometimes. Sometimes, yeah.

24 MS. DUNCAN: Okay. And you know, the judge
25 explained the nature of this case to you. Is there

1 anything about this case that you feel like could
2 contribute to your depression or --

3 MR. BRIMMER: No, no.

4 MS. DUNCAN: Just that you have these
5 episodes, and the length of the trial, it's likely --
6 there is a possibility that one of those episodes
7 will happen within six to eight weeks?

8 MR. BRIMMER: Yes.

9 MS. DUNCAN: And that's the concern?

10 MR. BRIMMER: I don't know how it will
11 affect this, so I figured it's only fair that that
12 information is presented to the decision-makers.

13 MS. DUNCAN: Sure. Thank you. I have no
14 further questions.

15 THE COURT: Ms. Bhalla?

16 MS. BHALLA: Yes. I'm sorry, I didn't hear
17 some things.

18 MR. BRIMMER: That's fine. I understand.

19 MS. BHALLA: How often do you say these
20 episodes happen?

21 MR. BRIMMER: Like I said, they can vary,
22 you know. A lot of times they'll just kind of
23 happen. But I can almost with certainty say that
24 within a six-to-eight-week time span it will happen.

25 MS. BHALLA: How many would you say you

1 have a month?

2 MR. BRIMMER: I would say that I spend
3 probably about half the month in some sort of
4 depressive episode, whether it be mild to severe, and
5 the severe ones are fairly rare.

6 MS. BHALLA: Okay. When you have a mild
7 case, how long does it last?

8 MR. BRIMMER: A few days, a few weeks.

9 MS. BHALLA: It just depends?

10 MR. BRIMMER: It depends on what I can do
11 in my own life to kind of -- if I can notice it, you
12 know, head it off at the pass. I have a dog that's
13 really good at helping with it. I've had him a
14 couple of years. He just knows.

15 MS. BHALLA: Is it a therapy dog?

16 MR. BRIMMER: No, not officially. He's
17 just my dog, so I can generally tell some things if
18 it's coming on, because he'll be in my lap and he
19 won't get out of my lap.

20 MS. BHALLA: Okay. Thank you, Your Honor.

21 THE COURT: Thank you, Ms. Bhalla.

22 Mr. Villa.

23 MR. VILLA: Mr. Brimmer, I know this is
24 hard to talk about. You said that you have severe
25 episodes and mild episodes; right?

1 MR. BRIMMER: Yes. Severe ones are fairly
2 rare.

3 MR. VILLA: And when you say rare, how many
4 times in a year?

5 MR. BRIMMER: Maybe one or two. I mean
6 severe being just I don't really want to get up, I
7 don't really want to leave. I will if I have to.
8 Because I was in the military. They happened while I
9 was in the military, but it was go to work or go to
10 Leavenworth, and one was significantly less bad than
11 the other.

12 MR. VILLA: While you were in the military
13 and had an episode, you went to work and did your
14 job?

15 MR. BRIMMER: I went to work, did my job,
16 didn't get written up. But I did have a severe one
17 about this time last year and ended up in the psych
18 ward for about a week or so.

19 MR. VILLA: Sorry about that. The episodes
20 you were describing, sometimes you were not paying
21 attention or zoning out, is that in the mild --

22 MR. BRIMMER: It happens more in the mild
23 cases. In the severe, it's just more true
24 depression; whereas in the mild, it's something
25 that's easier to mask. But you know, it still -- I

1 usually just mask it by zoning out and not paying
2 attention so I don't have to deal with anyone.

3 MR. VILLA: I see. So if you were to sit
4 on this jury and a mild episode came on, do you think
5 you would be able to keep your attention on the case,
6 use the self-help things you talked about, so that
7 you could pay attention?

8 MR. BRIMMER: Like I said, I don't know for
9 sure. I can sure as hell try, but you know, I mean,
10 I did manage to make it through basic training, but
11 you don't need a whole lot of know-how in basic
12 training.

13 THE COURT: Thank you, Mr. Villa.

14 Mr. Jewkes.

15 MR. JEWKES: Mr. Brimmer, what branch of
16 the military were you in?

17 MR. BRIMMER: Air Force, six years.

18 MR. JEWKES: What was your MOS?

19 MR. BRIMMER: 2W2.

20 MR. JEWKES: And what is 2W2?

21 MR. BRIMMER: I'm just going to say
22 munitions, maintain the actual AFC. Later you can
23 find out what it actually was, but I don't like to...

24 MR. JEWKES: That's fine. I understand.
25 Are you currently under care with the Veterans

1 Administration?

2 MR. BRIMMER: Not yet. I need to get a
3 therapist worked out for that. I don't -- it's a
4 pain to get to know a therapist so...

5 MR. JEWKES: Yeah. Okay. And do you think
6 you could handle jury duty in this case?

7 MR. BRIMMER: That's just one of those, if
8 I was told, "Hey, you got to be here, you got to do
9 this," I'll give it my best shot. But I'm not going
10 to say one hundred percent yes or no, because it's
11 just one of those things I don't know.

12 MR. JEWKES: All right, sir. Thank you.

13 THE COURT: Thank you, Mr. Jewkes.

14 All right. Thank you, Mr. Brimmer. I
15 appreciate it.

16 Ms. Montes. So what special disability or
17 problem?

18 MS. MONTES: Last year in March I had
19 surgery. One of my intestines busted, so they had to
20 put a little bag, and now we've had to go -- I have
21 to take medicine that gives me a lot of gas. I took
22 some this morning, but y'all have been killing me.

23 THE COURT: Understanding there's times
24 when we have to take a break or somebody has to use
25 the restroom -- it's not like when it happens, it

1 just happens; right?

2 MS. MONTES: Um-hum.

3 THE COURT: But it doesn't necessarily mean
4 that you have to go every 15 minutes?

5 MS. MONTES: No. I put my hand up.

6 THE COURT: But understanding if that's the
7 case, we'll have to take a break?

8 MS. MONTES: Yeah, but I want to know how
9 to approach it, interrupt.

10 THE COURT: Ms. Wild is not going to be
11 here; but the next two days when she's here, just
12 signal to her and we'll figure out what to do. Okay?

13 MS. MONTES: Okay. During trial, if I get
14 selected, hopefully I want to know how to interrupt.

15 THE COURT: Does anyone have any questions?

16 MR. BECK: Does it happen with a certain
17 regularity, happen every so often?

18 MS. MONTES: Like when I was coming this
19 morning, I had to pull over. I had to pull over. If
20 not, I would have had an accident. It just happens,
21 you know. Then if I don't eat, I get migraines; then
22 I'll start throwing up. And if I eat, I have to go
23 to the bathroom. And then to come in, it's awful.
24 They don't have restrooms outside security. I had to
25 come back in.

1 MR. BECK: So knowing, you know, your
2 condition, about your condition, if you were picked
3 for this jury, could you serve on it if, at times,
4 you had to go to the bathroom and raise your hand,
5 Ms. Standridge would stop?

6 MS. MONTES: Yeah, I could raise my hand.
7 That's what I wanted to tell you, to see, so I won't
8 interrupt. You know what I mean?

9 MR. BECK: Of course. So you think if you
10 can do that --

11 MS. MONTES: Yeah. Then there's, like,
12 when we go to lunch, you know, we go through security
13 and go back in, and I ran.

14 MR. BECK: I anticipate that will be a
15 little quicker when there's a few jurors instead of
16 the huge number here. So knowing that, knowing that
17 there will be fewer jurors and we can stop if you
18 need to go to the restroom, do you think you're fit
19 and well enough?

20 MS. MONTES: Yeah. I mean, I'll try to go
21 before I come.

22 MR. BECK: Sure.

23 MS. MONTES: But I just didn't know how to
24 approach it.

25 MR. BECK: Sure. We can work that out.

1 MS. MONTES: I don't want to stand up and
2 say, "Stop."

3 MR. BECK: Thank you, Ms. Montes. I
4 appreciate it.

5 THE COURT: Ms. Duncan?

6 MS. DUNCAN: No questions.

7 THE COURT: Ms. Bhalla? Mr. Villa?
8 Ms. Jacks?

9 All right. Thank you, Ms. Montes.

10 Remind me your name.

11 MR. BAXA: Rowan Baxa. R-O-W-A-N. Last
12 name is B-A-X-A.

13 THE COURT: Okay. They gave it to me as a
14 Y. I keep trying to turn you into an R and they keep
15 having a Y there.

16 Mr. Baxa, what special problem or
17 disability?

18 MR. BAXA: My apologies. It slipped my
19 mind when you were asking earlier, when you were
20 asking about time constraints, any problems within
21 the next six weeks or so. Normally my parents take
22 care of my grandmother. She's 91 and she lives with
23 us, because we can't really afford hospice. They own
24 a newspaper they deliver. It's called The
25 Newspapers. They deliver from usually the 25th, at

1 the end of the month, till about the first of the
2 next month, you know, just a few days after that, and
3 I take care of her during that time. We don't really
4 ask friends or anything, because most of the time she
5 needs help with getting to use the bathroom and
6 needing help with food, so we don't really ask
7 friends; or usually it's up to me. And if it were to
8 take that long an event, I don't know what we would
9 do because, like, right now they should be
10 delivering. But since I'm here in court today, my
11 parents are watching her right now. So my apologies
12 for not bringing that up earlier. It completely
13 slipped my mind.

14 THE COURT: If you were selected and people
15 wanted you to serve on this jury, do you think your
16 parents could take care of your grandmother during
17 that one time at the end of the month that it might
18 occur, come in for a few days?

19 MR. BAXA: It's really hard to say because,
20 like I say, we can't afford to take her to hospice
21 during those days. And since my parents are running
22 and delivering the papers themselves, they don't have
23 anyone else doing the routes. I don't know if I
24 could say with total assurance that we would be able
25 to find anyone during those -- about that week, I

1 should say, during the end of the month and the very
2 beginning of the next month.

3 THE COURT: Okay. Mr. Beck?

4 MR. BECK: I don't have any questions, Your
5 Honor. Thank you.

6 THE COURT: Ms. Duncan?

7 MS. DUNCAN: Mr. Baxa, where do you live?

8 MR. BAXA: I live at 2645 Dona Ana Road.
9 It's just about two and a half miles from here.

10 MS. DUNCAN: So you're in Las Cruces?

11 MR. BAXA: In Las Cruces, yes.

12 MS. DUNCAN: So how many days do your
13 parents deliver their paper?

14 MR. BAXA: Usually anywhere from --
15 depending on the scheduling, because my parents are
16 artists, as well. Sometimes they have other shows
17 and things going. You know how it is. So it's kind
18 of flexible. Like if it's a Sunday, they normally
19 don't deliver because no one is open, so they can't
20 deliver, depending how it fits; five or seven or
21 eight days. So I would say on average about a week.

22 MS. DUNCAN: So are they delivering to
23 businesses or to homes or both?

24 MR. BAXA: To businesses mostly. They
25 deliver anywhere from here -- just to state

1 locations. They deliver to Alamogordo, Socorro,
2 Ruidoso, Cloudcroft, Truth or Consequences. They do
3 have one location in Ruidoso where they drop off
4 papers where we have some other people pick them up
5 as part of our normal cycle where they take it to
6 places like Roswell and Carlsbad and places like
7 that, farther north, northeast in that area. So
8 yeah, it usually takes them about a week to deliver
9 that in those locations.

10 MS. DUNCAN: And are the deliveries
11 something they can do in the evenings, or does it
12 have to be in the daytime?

13 MR. BAXA: Normally it's in the daytime.
14 That's why we don't do it at night. We hit the
15 businesses when they're open and take them in to the
16 racks at the restaurants and all when the shops and
17 visitor centers are open. Otherwise we would have to
18 leave them in plastic bags and tie them on the door
19 handle, and sometimes they get lost, and that's a
20 problem for the businesses who's hoping to receive
21 the papers as well as for our credibility. So most
22 of the time, if not always, we try to hit them when
23 they're open.

24 MS. DUNCAN: Has there ever been a time
25 when you've had to variety your schedule, not being

1 able to deliver during the week or at night or on the
2 weekends?

3 MR. BAXA: Like I said, besides the varying
4 of like maybe a day or two, kind of shift forwards or
5 backwards, if something came up, like a doctor's
6 appointment for my grandmother or for one of them.
7 But the shifting a whole week -- the only time that's
8 ever done, we do a double issue in December because
9 it's December, January. My parents like to go up --
10 visit up to Iowa to visit family during that time, so
11 they do a double issue that takes care of both
12 December and January so that way they have that end
13 of the month to not have to worry about. But that's
14 the only time they ever do double issues. It's a
15 monthly issue, I should say. I didn't state that.
16 These are monthly issues.

17 MS. DUNCAN: So are they delivering papers
18 now, or is it at the end of the month?

19 MR. BAXA: If I was at home right now, they
20 would be delivering. The only reason they're home
21 right now is to watch my grandmother while I'm here.

22 MS. DUNCAN: Thank you. Nothing further.

23 THE COURT: Thank you, Ms. Duncan.

24 Ms. Bhalla, Mr. Villa?

25 MR. VILLA: No, Your Honor.

1 THE COURT: Mr. Jewkes?

2 MR. JEWKES: No, Your Honor.

3 THE COURT: Thank you, Mr. Baxa. Stand
4 right there. Let's see if we've got anybody else.

5 (The following proceedings were held in
6 open court.)

7 THE COURT: All right. Is there any other
8 member of the panel who has any special disability or
9 problem that would make serving as a member of this
10 jury difficult or impossible that we haven't talked
11 about?

12 All right. We've gotten most of our jury
13 and panel talking, but a few not so, and so I'm going
14 to ask some individual questions. Let's see. I'm
15 getting all these out of order here. I hope I kept
16 these in order.

17 Ms. Moore, let's start with you. You're
18 over from Carlsbad. Thank you very much. What did
19 you do before you retired?

20 MS. MOORE: I was a schoolteacher.

21 THE COURT: And who was your employer?

22 MS. MOORE: It was a long time ago. I was
23 employed by Farmington Municipal School District. I
24 was a remedial math teacher for a few years.

25 THE COURT: Did you have a particular grade

1 that you taught?

2 MS. MOORE: No. I taught remedial math.
3 My two degrees are in elementary education with an
4 emphasis on early childhood.

5 THE COURT: And what did your spouse do
6 before retirement?

7 MS. MOORE: He was -- he worked for
8 ConocoPhillips for 35 years. He was an engineer.
9 He's an offshore drilling supervisor. He's worked
10 all over the world.

11 THE COURT: All right. And we talked a
12 little bit about the law enforcement question where
13 you put yes, you'd be more likely to believe law
14 enforcement. And you answered yes, "Do you believe
15 law enforcement are more likely to be truthful?"

16 Given the questions I asked earlier, my
17 understanding is: You'd be able to look at the
18 police officer and make an individual determination;
19 you wouldn't decide it before just because of his or
20 her employment; you'd be able to make an individual
21 determination?

22 MS. MOORE: Yes.

23 THE COURT: One other question that you
24 answered on your questionnaire that I wanted to ask
25 you about was -- it says, "A person accused of a

1 crime does not have to testify in his defense. His
2 silence may not be considered as evidence against
3 him."

4 And you said, "I would wonder why he or she
5 close not to speak."

6 Let me talk to you about this for a moment,
7 because I want to talk to everybody about it, and
8 it's called the right to silence. I don't know what
9 these gentlemen are going to do in this trial, but I
10 tell you what I'm going to do. I'm going to tell you
11 early and often that one of the most cherished rights
12 in our society and in our Constitution is the right
13 to silence. These men don't have to put on any
14 defense at all, they don't have to put on any
15 witnesses at all, and they don't have to testify.
16 And you can't infer anything from that as far as
17 guilt or innocence. You can't even think about it.
18 You have to put it out of your mind. Do you think
19 you could do that?

20 MS. MOORE: Yeah, I think so. I think the
21 reason why I answered the way I answered -- and it
22 may be my personality -- I know if I were innocent, I
23 would be screaming from the rooftops, I would -- I
24 would try to convince everybody I am innocent. I
25 wouldn't just sit there mutely and say, "Well, sure."

1 That's why I wrote that.

2 THE COURT: And that may be you, and that
3 may be certain people in this room. But can you put
4 that aside, cherish that right to silence, and not
5 hold it against anybody who might exercise it in this
6 trial?

7 MS. MOORE: I understand.

8 THE COURT: And healthwise, we're going to
9 try to take a break every hour and a half. Every
10 hour and a half, do you think that would work for
11 you?

12 MS. MOORE: Yes.

13 THE COURT: All right. Thank you,
14 Ms. Moore.

15 Ms. Benavidez, you're down from Belen.
16 Thank you very much. Who is your spouse's employer?

17 MS. BENAVIDEZ: Sandia Labs.

18 THE COURT: All right. And we talked a
19 little bit about your dates of unavailability, some
20 of the problems you had, the February 4 through the
21 10th dates that you mentioned in your questionnaire.
22 Those are the dates of your trip that you now just
23 mentioned to us?

24 MS. BENAVIDEZ: Correct.

25 THE COURT: Okay. How -- if you were

1 selected for this jury, I know you've got some
2 tickets that you've already purchased, but is the
3 trip of some nature that you could reschedule it down
4 the road?

5 MS. BENAVIDEZ: Not reschedule. But
6 potentially have -- see if somebody else could take
7 on my responsibilities.

8 THE COURT: All right. Thank you, Ms.
9 Benavidez.

10 Ms. Padilla, what do you do?

11 MS. PADILLA: I work for the county clerk's
12 office. I'm the admin assistant.

13 THE COURT: What was your major field of
14 study in vocational school?

15 MS. PADILLA: Office occupations.

16 THE COURT: And on your dates of
17 unavailability in your questionnaire you had okay
18 to -- you had just a blank through it. Were you okay
19 at the time to serve?

20 MS. PADILLA: Yes.

21 THE COURT: Six to eight weeks. All right.
22 I talked to Ms. Moore and everybody about police
23 officers. You think if they took the stand, you
24 wouldn't, just because they're a police officer,
25 believe them? You'd listen to them --

1 MS. PADILLA: I would listen.

2 THE COURT: -- make your individual
3 determination?

4 One of the other questions I wanted to ask
5 you about, one of your answers, it says, "Do you
6 think if a person is brought to trial for being a
7 member of a prison gang allegedly involved in crimes
8 such as murder, assault, and conspiracy, there must
9 be some truth to the charges and it's likely that
10 person is guilty under the law?"

11 And you said, "Can't say. That's a hard
12 question."

13 But can you give me this assurance? And
14 I'll ask generally after I get your answer. Remember
15 we have this presumption of innocence that right now
16 we're starting very clean, we're not going to worry
17 about why those men are sitting over there right now.
18 They're presumed innocent, they pled not guilty, and
19 the Government has to prove their guilt beyond a
20 reasonable doubt. Could you right this minute just
21 presume them guilty (sic) and then wait and hear the
22 evidence before making a determination?

23 MS. PADILLA: No, I'd have to make a
24 determination.

25 THE COURT: So you'd wait?

1 MS. PADILLA: Yes, I would wait.

2 THE COURT: You'd presume them innocent to
3 start this trial?

4 MS. PADILLA: Yes, sir.

5 THE COURT: Is there anybody that could not
6 do that?

7 All right. I'm going to assume from that
8 that we're not going to worry about why they're
9 sitting there, and everybody is going to wait and see
10 what the evidence is going to be before they make a
11 determination on guilt or innocence.

12 One other question I wanted to ask you
13 about, Ms. Padilla, is your answer to some of the
14 pictures and things that may be shown here, and they
15 ask you to express your concerns, if any, about your
16 ability to evaluate all the evidence, including any
17 graphic photographs and video. And you said you were
18 used to seeing those sort of pictures when they were
19 presented to you at the office. Do you think you'd
20 be able to view them here and look at them and
21 consider them as part of the evidence?

22 MS. PADILLA: Yes.

23 THE COURT: All right. Thank you, Ms.
24 Padilla.

25 Ms. Taylor, you're down from Albuquerque

1 with me. I appreciate it. What does your spouse do?

2 MS. TAYLOR: He's a support rep for a large
3 mining company.

4 THE COURT: All right. And what is Mega
5 Corporation?

6 MS. TAYLOR: It's a palliation, large
7 mining equipment. The guys call them Tonka toys. So
8 he goes all over the world, big mines.

9 THE COURT: This might be a good time to
10 ask any members of the jury in the room. Do y'all
11 know each other? Anybody recognize somebody? We've
12 got people from all across the state, so it may not
13 be as much as if we were just having Las Cruces.

14 Ms. Taylor, how has your hearing been so
15 far?

16 MS. TAYLOR: Very good.

17 THE COURT: The acoustics work here?

18 MS. TAYLOR: Yes.

19 THE COURT: If people talk in a microphone,
20 you'll be okay?

21 MS. TAYLOR: Yes.

22 THE COURT: The courtrooms are pretty good
23 about that, but sometimes they don't work for
24 everybody. You had indicated that you were
25 purchasing a home this week.

1 MS. TAYLOR: Last Thursday. He's moving
2 in, and I'm up here.

3 THE COURT: See. There is sometimes good.

4 MS. TAYLOR: It is good.

5 THE COURT: I sometimes get some young
6 mothers, and they don't want to be on jury duty.
7 About the second or third day in the hotel, they're
8 calling home, they're all for it. It works for some
9 people.

10 On dates of unavailability you had N/A.
11 Are you okay to serve the next six to eight weeks?

12 MS. TAYLOR: Yes.

13 THE COURT: Let me ask you a few things
14 that you had. You had NMSPF. What is that?

15 MS. TAYLOR: Oh, I'm on the board of
16 directors for New Mexico State Parks Foundation.

17 THE COURT: Okay. And what is KNMB?

18 MS. TAYLOR: I worked for Keep New Mexico
19 Beautiful.

20 THE COURT: And Balloon Explorium?

21 MS. TAYLOR: It's through the ballooning
22 community in Albuquerque, Balloon Fiesta.

23 THE COURT: Thank you, Ms. Taylor. I
24 appreciate it.

25 Ms. Quinones, over from Deming, thank you

1 very much.

2 MS. QUINONES: Thank you, sir.

3 THE COURT: What did your spouse do before
4 he passed away?

5 MS. QUINONES: He came from Mexico many
6 years ago, and when he became a U.S. citizen -- well,
7 before he came to the States, he was a professor in
8 Mexico City. And then we got married here in New
9 Mexico, and he started working. When he came here,
10 he started working at the mines, and he retired from
11 the mines after working about 45 years there, and he
12 passed away two years ago in 2015.

13 THE COURT: He worked for Phelps Dodge?

14 MS. QUINONES: For Phelps Dodge. He was
15 the foreman for PD.

16 THE COURT: They were an old client of mine
17 when I was practicing law. You put on dates of
18 unavailability, none. So you're okay for the next
19 six to eight weeks?

20 MS. QUINONES: Oh, yes, I'm ready to go.

21 THE COURT: The same question about police
22 officers. You had indicated -- I think that you
23 indicated on yours that you generally found them more
24 likely to be truthful and things like that. Do you
25 think with the police officers and law enforcement

1 that's going to come here, can you just listen to the
2 evidence that they are going to present, you judge
3 their credibility, and not make a decision about
4 whether they're truthful or not until they're done
5 testifying?

6 MS. QUINONES: You know what? We have the
7 good guys and the bad guys; right? But at the time
8 that a police officer -- they become a police
9 officer, they take the oath. So I fully believe that
10 they should be telling us, you know, the truth as it
11 is.

12 THE COURT: Well, I understand we always
13 hope police will tell the truth.

14 MS. QUINONES: Um-hum.

15 THE COURT: But will you not make a
16 determination whether the police officers who are
17 testifying here in this trial are telling the truth
18 until they testify?

19 MS. QUINONES: They would have to -- what's
20 your question? I mean, am I going to --

21 THE COURT: Are you just going to believe
22 any police officer that gets on the stand?

23 MS. QUINONES: Oh, no, no.

24 THE COURT: You're going to wait until they
25 testify?

1 MS. QUINONES: I have to wait until what
2 they have to say, then I will determine.

3 THE COURT: And somebody will probably
4 cross-examine them and sometimes they may raise the
5 possibility they're not telling the truth.

6 MS. QUINONES: Exactly.

7 THE COURT: And you'll listen to that?

8 MS. QUINONES: Exactly.

9 THE COURT: And you'll make a determination
10 after you listen to the --

11 MS. QUINONES: That's why I listen to both
12 sides.

13 THE COURT: Thank you, Ms. Quinones.

14 Mr. Bock, you're down from Albuquerque as
15 well. Where was your place of birth?

16 MR. BOCK: Albuquerque.

17 THE COURT: And what do you do?

18 MR. BOCK: I'm a medical assistant at UNM
19 Hospital.

20 THE COURT: And what UNM hospital do you
21 work at?

22 MR. BOCK: I work at a clinic on 4th
23 Street.

24 THE COURT: And what -- does UNM own that
25 one on 4th Street? That's close to the courthouse.

1 I drive by there every day.

2 MR. BOCK: Right there across the street
3 from the church.

4 THE COURT: And what does your spouse do?

5 MR. BOCK: My spouse is an administrative
6 assistant for Pres's health and wellness program.

7 THE COURT: What was your major field of
8 study in vocational school?

9 MR. BOCK: I got my certificate in medical
10 assistant.

11 THE COURT: Thank you, Mr. Bock.

12 Ms. Montes, you're over from Artesia.
13 Thank you very much. Have you worked outside of the
14 home?

15 MS. MONTES: Yes, I worked at a nursing
16 home.

17 THE COURT: What was the name of it?

18 MS. MONTES: San Pedro.

19 THE COURT: What's your spouse do?

20 MS. MONTES: My husband is disabled.

21 THE COURT: Did he work?

22 MS. MONTES: He used to work in the
23 dairies.

24 THE COURT: Any particular one over there?

25 MS. MONTES: Sir?

1 THE COURT: Any particular one?

2 MS. MONTES: Yeah, he worked for Hafliger
3 Dairy.

4 THE COURT: You've been represented by an
5 attorney in the past. What was that in connection
6 with?

7 MS. MONTES: A divorce.

8 THE COURT: You had -- dates of
9 unavailability, you had N/A. Are you okay to serve
10 the next six, eight weeks?

11 MS. MONTES: Um-hum.

12 THE COURT: I want to ask you a couple of
13 questions on your questionnaire, and the one I wanted
14 to ask you about, you put, "Do you think if a person
15 is brought to trial, there must be some truth to the
16 charges, and it's likely that person is guilty under
17 the law?" And you said, "Yes." But you also said,
18 "Could also not be guilty. There's always two sides
19 to the story." So --

20 MS. MONTES: That's correct.

21 THE COURT: Do these men over here on
22 this --

23 MS. MONTES: They're innocent to me right
24 now. Everybody is innocent.

25 THE COURT: And the next question was --

1 and let me just read it to you, because your answer
2 might be different, given what you just said. It
3 says, "The judge will instruct you that the burden is
4 on the prosecution to prove beyond a reasonable doubt
5 the defendant is guilty. It is not for the defense
6 to prove that the defendant is not guilty. If after
7 hearing the evidence you thought the defendant could
8 be guilty but you were not convinced beyond a
9 reasonable doubt, would you be able to return a
10 verdict of not guilty?"

11 MS. MONTES: If I'm not completely sure
12 that he's not guilty -- I can't send an innocent man
13 to prison.

14 THE COURT: So you had checked "No," but it
15 sounds to me like what you're saying is, yes, you
16 would have to say he's not guilty --

17 MS. MONTES: No.

18 THE COURT: Let me put it this way. Maybe
19 the question is confusing, or maybe it's not.

20 MS. MONTES: Yeah.

21 THE COURT: If the Government doesn't prove
22 beyond a reasonable doubt that the defendants are
23 guilty, what's your answer going to be?

24 MS. MONTES: If they don't prove it,
25 they're innocent; they're not guilty.

1 THE COURT: I know you have a 10-year-old
2 son, but if you're selected, you'll be able to serve?

3 MS. MONTES: Yes, I have my husband at
4 home, like I told you. My husband is disabled. Then
5 I have my daughter at home. She has a little one
6 that has cancer. Let me put it this way. She just
7 got her results, and they came back that she's maybe
8 cancer-free.

9 THE COURT: Thank you, Ms. Montes.
10 Appreciate it.

11 Ms. Harris, you're down from Placitas.
12 I've got in-laws in Placitas. Do you know any Rameys
13 up there?

14 MS. HARRIS: No.

15 THE COURT: They live in Placitas, too.
16 What's the name of your business?

17 MS. HARRIS: I'm an independent contractor,
18 massage therapy.

19 THE COURT: No name for the company? Work
20 at 10,000 Waves up there? What was your major field
21 of study in college?

22 MS. HARRIS: I recently went back to school
23 and got a degree in strategic communication.

24 THE COURT: Okay. And what's your career
25 goals at this point?

1 MS. HARRIS: You know, I wish I could
2 answer that question. I can't, though. I don't have
3 any specific goals right now.

4 THE COURT: Okay. Now, the dates that you
5 gave on your questionnaire were 6 through 10, 2017.
6 I assume that's 2018?

7 MS. HARRIS: Yeah.

8 THE COURT: And this is where you have your
9 vacation?

10 MS. HARRIS: Yes, sir.

11 THE COURT: All right. You mentioned in
12 one of your questions about whether there were any
13 philosophies or anything that might impact upon your
14 jury -- you put "humanitarian." Is there anything
15 about that that you think would keep you from just
16 listening to the evidence, following my instructions,
17 and deciding the case on that basis? Is there
18 anything about --

19 MS. HARRIS: No, sir.

20 THE COURT: All right. One question I had
21 is that -- turn the page here -- do you think your
22 feelings involving people who sell or use drugs or
23 use -- or your personal experiences involving drugs
24 might influence you in a case where there are
25 allegations of distribution of drugs? And you said,

1 "Yes, might leave a lot of room here."

2 Understanding that, do you think you could
3 just put your experiences and those things aside,
4 just listen to the evidence here, just listen to my
5 instructions, and not let those sort of outside
6 things influence your decision?

7 MS. HARRIS: Yes, I do.

8 THE COURT: Thank you, Ms. Harris. I know
9 that jury duty would be a financial hardship, but if
10 you were selected to serve, do you think you'd be
11 able to do it financially?

12 MS. HARRIS: Yes, sir.

13 THE COURT: Thank you, Ms. Harris.

14 Let me squeeze in one more before we take a
15 break.

16 Ms. Sauer, you're from Torreon. Exactly
17 where is Torreon? Tell me. I know I've probably
18 been there.

19 MS. SAUER: Well, it's north of
20 Mountainair, about seven miles north of Mountainair.

21 THE COURT: So you go down -- is that 14
22 that you go down?

23 MS. SAUER: It used to be South 14. I
24 would go to Albuquerque, take South 14. And so if
25 you want to go to Mountainair, that's seven miles

1 north, still South 14. I think it's another number.
2 But I've never really gotten in it my head as long as
3 we've been there.

4 THE COURT: It goes on to Gran Quivira and
5 the Salt -- it's a beautiful area.

6 MS. SAUER: Yes, it is.

7 THE COURT: Your employer -- what is PMS?

8 MS. SAUER: You know, they're an off branch
9 from Presbyterian Medical Services. They got into
10 the food and helping the seniors. And also, they
11 have now for children, that they got into also. The
12 same company. But they're not affiliated with
13 Presbyterian Hospital or anything like that, as far
14 as I know.

15 THE COURT: What did your spouse do before
16 retirement?

17 MS. SAUER: He was in the Air Force.

18 THE COURT: Okay. All right. All right.
19 Thank you, Ms. Sauer.

20 All right. I think what we'd like to do is
21 take about a 15-minute break, and then I'm going to
22 come in and finish -- try to finish my questions this
23 afternoon. We'll see if we can get to the Government
24 and get them started, but I'm going to finish my
25 questions. I may not go all the way into the jury

1 group, but we'll go a way.

2 Because we are taking our first break this
3 afternoon, I'm going to remind you of a few things
4 that are especially important. Until the trial is
5 completed, you're not to discuss this case with
6 anyone, whether it's members of your family, people
7 involved in the trial, or anyone else. And that
8 includes your fellow jurors. If anyone approaches
9 and tries to discuss the trial with you, please let
10 me know about it immediately.

11 Again, you must not read or listen to any
12 news reports of the trial. Again, don't get on the
13 internet and do any research for purposes of this
14 case.

15 And finally, remember that you must not
16 talk about anything with any person who is involved
17 in the trial, even if it doesn't have anything to do
18 with the trial.

19 If you need to speak with me, simply give a
20 note to one of the court security officers or the
21 courtroom deputies here. I'll try not to repeat
22 these every time we take a break, although the next
23 break will probably be for the evening, and I will
24 remind you what to do overnight.

25 All right. We'll be in recess about 15

1 minutes. Don't come into the courtroom until
2 Ms. Wild or Ms. Standridge comes back to get you.
3 When you come back in, be sure to come back and be
4 seated in the seats in which you're seated.

5 All rise.

6 (The venire panel left the courtroom.)

7 THE COURT: All right. Anything we need to
8 discuss before we take our break, Mr. Beck?

9 MR. BECK: Not from the Government, Your
10 Honor.

11 THE COURT: How about from the defendants?
12 Anything? All right. See you in about 15 minutes.

13 (The Court stood in recess.)

14 THE COURT: Does everyone have counsel?
15 Make sure everyone has counsel. All rise.

16 (The venire panel entered the courtroom).

17 THE COURT: All right. Everyone be seated,
18 and we'll see who we lack here.

19 All right. I appreciate everybody getting
20 in and out. Very good.

21 All right. Mr. Oldknow, you're down from
22 Santa Fe. Thank you very much. You said you were
23 represented by an attorney. What was that in
24 connection with?

25 MR. OLDKNOW: That was in connection with a

1 civil suit back in the mid '90s.

2 THE COURT: What was the nature of it?

3 MR. OLDKNOW: A dog bite case.

4 THE COURT: In your question where you
5 talked about being a Freemason, you put, "Many
6 offices held at local, state, and national levels
7 since 2000." What were you trying to communicate
8 with that? You've held many offices?

9 MR. OLDKNOW: I've held those offices.

10 THE COURT: Okay. I've got it. Looking at
11 your dates of unavailability, you put "N/A," so
12 you're okay timewise to serve the next six to eight
13 months -- eight weeks?

14 I know I'm going to scare all of you off
15 and you won't come back tomorrow.

16 Timewise?

17 MR. OLDKNOW: Nothing that I can't get out
18 of.

19 THE COURT: And on your special
20 questionnaire I wanted to ask you one question. You
21 say you support appropriate civil disobedience and
22 political demonstrations. That's a viewpoint that
23 many people have held, and it's held in this country.
24 But you don't see how it would impact, after sitting
25 here today, on this case? Is that fair to say? That

1 wouldn't keep you from being fair and impartial, that
2 belief?

3 MR. OLDKNOW: That would not keep me from
4 being fair and impartial, though I'm hard-pressed to
5 imagine how such a thing could come up in the context
6 of this case.

7 THE COURT: All right. That was my
8 thoughts, too. Thank you, Mr. Oldknow.

9 Ms. Decramer, what brought you from
10 Minnesota to New Mexico?

11 MS. DECRAMER: Well, we were wintering down
12 here to begin with, and we decided to just turn the
13 tables and come down here and summer up in Minnesota.

14 THE COURT: What did you do before
15 retirement?

16 MS. DECRAMER: I was an administrative
17 assistant in an insurance agency.

18 THE COURT: Okay. And this question -- I
19 wanted to ask if this is still your answer. Again,
20 it's this question: "The judge will instruct you
21 that the burden is on the prosecution to prove beyond
22 a reasonable doubt that the defendant is guilty. It
23 is not for the defense to prove that the defendant is
24 not guilty. If, after hearing the evidence, you
25 thought the defendant could be guilty but you were

1 not convinced beyond a reasonable doubt, would you be
2 able to return a verdict of not guilty?"

3 And you put, "No."

4 Is that still your answer?

5 MS. DECRAMER: If I'm not convinced beyond
6 a reasonable doubt that they're not guilty, no, I
7 couldn't do it.

8 THE COURT: You couldn't find them guilty?

9 MS. DECRAMER: I could not find them not
10 guilty.

11 THE COURT: Okay. All right. So you would
12 be able to return a not-guilty verdict; correct?

13 MS. DECRAMER: Uh-huh.

14 THE COURT: And let me ask you, on some of
15 the evidence that we're going to see, they ask you
16 about -- the questionnaire asks, "Do you feel it's
17 possible you would not be able to look at the
18 photographs and video recordings?"

19 Would you just not be able to look at them
20 at all, or would you be able to consider the evidence
21 and take a look at them?

22 MS. DECRAMER: It would be kind of
23 difficult, because I just don't want it imprinted on
24 my mind every time I close my eyes, seeing something.

25 THE COURT: But do you think if you were

1 selected as a juror, you could do your duty and look
2 at the evidence? Because you're going to have to
3 look at it all and consider it all.

4 MS. DECRAMER: I guess I would have to.

5 THE COURT: Okay. And you think you could
6 do that? Nobody says you have to like it, but do you
7 think you could do it?

8 MS. DECRAMER: If I have to.

9 THE COURT: All right. Thank you, Ms.
10 Decramer.

11 Ms. Cator, am I saying your name right?

12 MS. CATOR: Cator. You got it.

13 THE COURT: All right. You're down from
14 Albuquerque. Thank you. What Presbyterian Hospital
15 do you work at?

16 MS. CATOR: Right now, the one downtown.
17 But halfway through this trial, I'll be transitioning
18 jobs and I'll work out of the High Resort office.

19 THE COURT: Now, again, in answer to some
20 of your questions, and as I said this morning, I
21 don't expect any sequestration in this case, I'm not
22 planning on that. I've only done it once for one
23 night. But I can't predict what will happen in a
24 case. Given that, are you okay to serve six to eight
25 weeks?

1 MS. CATOR: Yes, sir.

2 THE COURT: All right. Your significant
3 other -- what is Ryan Care? Is that it? Ryan Carr?

4 MS. CATOR: Ryan. Sorry.

5 THE COURT: Ryan Carr? What is that?

6 MS. CATOR: He's a classification
7 specialist at MDC, and runs -- his whole job is
8 running NCICs for everybody coming in, everybody
9 going out, and that includes staff and volunteers.

10 THE COURT: Healthwise, we're going to take
11 a break about every hour and a half. That will work
12 for you?

13 MS. CATOR: We're good.

14 THE COURT: Thank you, Ms. Cator.

15 Mr. Gonzales, over from Roswell. I spent a
16 summer working at a law firm in Roswell one time. It
17 was the hottest summer I ever spent. I lived in a
18 carriage house over on Lea Street and it didn't have
19 an air conditioner. And I finally convinced the guy
20 I was renting it from if I could take \$20 out of the
21 rent and go buy a fan. Boy, it was hot.

22 Healthwise, we talked a little bit about,
23 you know, being able to stand. If you're able to
24 stand any time, okay to serve six to eight months?

25 MR. GONZALES: Yes, sir.

1 THE COURT: All right. Six to eight weeks.
2 You think I'm fooling, don't you? You think it's a
3 bait-and-switch.

4 All right. I want to talk to you a little
5 bit about the presumption of innocence. Do you --
6 this question: "Do you think if a person is brought
7 to trial, there must be some truth to the charges and
8 it's likely that person is guilty under the law?"

9 Do you think we could just start with the
10 presumption of innocence here and not worry about how
11 they got here, why they're here right now?

12 MR. GONZALES: Yes.

13 THE COURT: And force the Government to
14 prove their guilt --

15 MR. GONZALES: Yes.

16 THE COURT: -- if they can prove it beyond
17 a reasonable doubt?

18 MR. GONZALES: Of course.

19 THE COURT: And so you're not going to
20 worry about whether there is some truth to the
21 charges or if they're likely guilty? You're not
22 going to start that way? Is that fair to say?

23 MR. GONZALES: I'll listen to everything
24 I've got to hear.

25 THE COURT: Okay. And financially, I know

1 this is a financial burden. But if you're selected
2 to serve, could you manage it?

3 MR. GONZALES: It's going to be tough.
4 Between me and my spouse, you know, we have to make
5 at least five grand a month between the both of us,
6 and I've barely been able to come up with my half of
7 the part, and \$40 a day, just, I'm sorry, that
8 doesn't help me at all. It doesn't get me nowhere.
9 You know, I'm just being honest.

10 THE COURT: All right. Thank you, Mr.
11 Gonzales.

12 Mr. Compton, you're down from Albuquerque,
13 as well. Thank you. What does your spouse do?

14 MR. COMPTON: She's a systems engineer at
15 Sandia Labs.

16 THE COURT: What is a solutions architect?
17 What is that?

18 MR. COMPTON: I don't know.

19 THE COURT: Let's see. There was a club
20 that you were a member of that I didn't know, the
21 Edelweiss German American Club.

22 MR. COMPTON: Edelweiss German American
23 Club.

24 THE COURT: What is that organization?

25 MR. COMPTON: It's just a social club

1 for -- well, it was started by German-Americans
2 living here.

3 THE COURT: One of the things that I'm
4 going to tell the jury is, they're not to consider
5 sentencing or punishment in any way. If they decide
6 to find the defendants guilty, that will be my
7 decision and it's not theirs to consider at all.
8 It's not a death penalty case. So with those
9 considerations, you'd be okay? I know we talked here
10 at the bench about some other things. But at least
11 on that score, you'd be okay?

12 MR. COMPTON: Yes.

13 THE COURT: All right. One question I
14 wanted to ask off your questionnaire, if I can find
15 it rather quickly, is you talked -- you mentioned it
16 earlier a little bit about, you know, you've had
17 second thoughts about the jury service you had, you
18 felt pressured to convict?

19 MR. COMPTON: Yes.

20 THE COURT: In this case, you're older,
21 more mature. Do you think if you were in there,
22 you'd be able to stand up for your position?

23 MR. COMPTON: I think so.

24 THE COURT: I mean, we want everybody to
25 consider their jurors and consider and reconsider

1 their positions, but this time around, you'd make
2 sure that you did what you thought you had to do?

3 MR. COMPTON: Yes.

4 THE COURT: Okay. And we take breaks every
5 hour and a half. You're okay healthwise?

6 MR. COMPTON: If we do. I have a bad back,
7 too.

8 THE COURT: All right. Thank you, Mr.
9 Compton.

10 Skip over to Mr. Besson down from
11 Albuquerque. What is Golden Equipment?

12 MR. BESSON: It's a heavy construction
13 equipment dealer.

14 THE COURT: All right. And what do you do
15 for them?

16 MR. BESSON: I do the purchasing for the
17 parts department.

18 THE COURT: All right. Thank you, Mr.
19 Besson.

20 Let's see. Mr. Graves. You're down from
21 Santa Fe. Thank you. What do you do?

22 MR. GRAVES: I work for a company that does
23 project management for the labs.

24 THE COURT: What is your employer?

25 MR. GRAVES: E.M. Beck.

1 THE COURT: And let's see. Your spouse is
2 a lawyer; correct?

3 MR. GRAVES: Correct.

4 THE COURT: And what's your spouse's name?

5 MR. GRAVES: Julia Peters.

6 THE COURT: And what kind of practice does
7 Ms. Peters have?

8 MR. GRAVES: She's an estate planning
9 attorney that currently works for -- she's a partner
10 in a trust firm.

11 THE COURT: Okay. So she doesn't practice
12 with a law firm? She doesn't have her own practice?
13 She works for a trust there?

14 MR. GRAVES: Correct.

15 THE COURT: And the same question I've sort
16 of asked others about police officers. You think
17 that -- well, this was -- this question 57, I'll ask
18 it again and see if we have an understanding. "The
19 judge will instruct you that the burden is on the
20 prosecution to prove beyond a reasonable doubt that
21 the defendant is guilty. It is not for the defense
22 to prove that the defendant is not guilty. If, after
23 hearing the evidence, you thought the defendant could
24 be guilty but you were not convinced beyond a
25 reasonable doubt, would you be able to return a

1 verdict of not guilty?"

2 And you put, "No."

3 Is that what you think, or do you -- would
4 you be able to return a verdict of not guilty?

5 MR. GRAVES: Yes, I would.

6 THE COURT: Thank you, Mr. Graves.

7 Ms. Garnanez, let me go over here. You're
8 down from Shiprock. Thank you. What is your place
9 of birth, Ms. Garnanez?

10 MS. GARNANEZ: I'm an educational assistant
11 for Central Consolidated Schools.

12 THE COURT: All right. And what was your
13 place of birth?

14 MS. GARNANEZ: Rehoboth, New Mexico.
15 Gallup.

16 THE COURT: And before the separation or
17 divorce, what did your spouse do?

18 MS. GARNANEZ: He's a heavy equipment
19 operator.

20 THE COURT: Who is his employer?

21 MS. GARNANEZ: It used to be BHP, but it's
22 Navajo Technical Mine.

23 THE COURT: That's the coal company up
24 there?

25 MS. GARNANEZ: Yes.

1 THE COURT: And is Shiprock -- is that
2 Central Consolidated School District?

3 MS. GARNANEZ: Yes.

4 THE COURT: And you were represented by an
5 attorney. What was that in connection with?

6 MS. GARNANEZ: That was my divorce
7 attorney.

8 THE COURT: Is your significant other -- is
9 that Harry Jim?

10 MS. GARNANEZ: Yeah, that's my significant
11 other.

12 THE COURT: Okay. I know jury service can
13 cause financial inconvenience, but are you okay to
14 serve the next six to eight weeks?

15 MS. GARNANEZ: Yes.

16 THE COURT: All right. Thank you,
17 Ms. Garnanez.

18 Mr. McNair, what brought you from
19 Mississippi to New Mexico?

20 MR. McNAIR: Your Honor, my car. No.
21 Okay. I hope you got a sense of humor.

22 THE COURT: I'll try. I'll try.

23 MR. McNAIR: It was my spouse's doctor,
24 before she passed. It was just recommended that she
25 move out here. She got better, but she passed

1 anyway.

2 THE COURT: What did your spouse do before
3 passing away?

4 MR. McNAIR: Worked at New Mexico State,
5 here in Las Cruces.

6 THE COURT: And what did she do for New
7 Mexico State?

8 MR. McNAIR: She was a counselor.

9 THE COURT: All right. What branch of
10 Government do you work for?

11 MR. McNAIR: DOD.

12 THE COURT: You've been represented by an
13 attorney in the past. What was that in connection
14 with?

15 MR. McNAIR: I never been represented by an
16 attorney. I've never been in trouble before.

17 THE COURT: All right. It was just not
18 filled in, so I was going to ask you if you had been.
19 You put dates of unavailability, you put N/A. Are
20 you okay to serve the next six, eight weeks?

21 MR. McNAIR: Eight months, if you want me
22 to.

23 THE COURT: I'll put you on my short list.
24 How about your hearing so far? Are you
25 doing okay in this courtroom?

1 MR. McNAIR: I'm fine.

2 THE COURT: Acoustics, microphones working
3 for you?

4 MR. McNAIR: Fine, yes, sir.

5 THE COURT: We talked a little bit about
6 law enforcement from your questions. Doesn't sound
7 like you're biased against all law enforcement;
8 you're going to have to eyeball them on the stand;
9 right?

10 MR. McNAIR: Right, sir.

11 THE COURT: And the same thing on the
12 presumption of innocence. You put in answer to that
13 question here -- the question is: "Do you think if a
14 person is brought to trial for being a member of a
15 prison gang and allegedly involved in crimes such as
16 murder, assault, conspiracy, there must be some truth
17 to the charges and it's likely that person is guilty
18 under the law?"

19 You didn't answer that yes or no, but you
20 wrote this: "That may be true," and you talk about
21 the justice system is designed to be a violent one
22 and things like that. But you would give these men
23 the presumption of innocence right off the bat;
24 you're not going to worry about how they get there,
25 you're just --

1 MR. McNAIR: Not at all. I don't know
2 these guys. I don't even know the case.

3 THE COURT: So you presume them innocent?

4 MR. McNAIR: They are innocent.

5 THE COURT: Thank you, Mr. McNair.

6 Ms. Apodaca, you're down from T or C.
7 Thank you very much. I used to have some family in
8 T or C. Do you know the Umbersons, Goodpastures, any
9 of them? They're probably a little old for you.

10 What brought you from Illinois to New
11 Mexico?

12 MS. APODACA: The Land of Enchantment. I
13 want to be enchanted.

14 THE COURT: What does your spouse do? Your
15 spouse works for the U.S. Forest Service.

16 MS. APODACA: Yes, that's why we came here.

17 THE COURT: What forest is close to T or C
18 that your spouse works?

19 MS. APODACA: The Gila.

20 THE COURT: Okay. Down by Silver City, in
21 there?

22 Talking again about this presumption of
23 innocence and your answer to that, you put,
24 "Possibly," so I need to kind of push you on that.
25 These men here -- can you presume them to be

1 innocent, not worry about how they got here?

2 MS. APODACA: I can presume them to be not
3 guilty, yeah.

4 THE COURT: Okay. And wait and see if the
5 Government can prove it beyond a reasonable doubt?

6 MS. APODACA: Yes.

7 THE COURT: All right. On 70-A, this is
8 the question about looking at these exhibits. Let's
9 see. Do you feel it's possible you would not be able
10 to look at such photographs? You put no, so you'd be
11 okay, you'd be able to look at them, you'll consider
12 them as part of the evidence?

13 MS. APODACA: Yes.

14 THE COURT: All right. And I know -- let
15 me see here. I know you'd miss your family a little
16 bit and worry about the additional responsibilities
17 that fall on your family, but okay to serve if
18 you're --

19 MS. APODACA: He's good.

20 THE COURT: All right. So you'd be good
21 for the next six, eight weeks? Thank you, Ms.
22 Apodaca.

23 Ms. Hournbuckle?

24 MS. HOURNBUCKLE: Yes, sir.

25 THE COURT: You're over from Cloudcroft.

1 Thank you. I've stayed at that hotel a few times.
2 Sure is beautiful over there.

3 MS. HOURNBUCKLE: Very pretty.

4 THE COURT: My father turns 84 on Sunday,
5 so -- next week, in the middle of the week, can't see
6 him -- but on Friday night I'm going to drive over to
7 Hobbs, so I'm going to see Cloudcroft on the way
8 home.

9 What brought you from Alabama to New
10 Mexico?

11 MS. HOURNBUCKLE: Well, it was a series of
12 steps. My husband was retired from the fire
13 department and he just felt a need to go back to
14 school and finish a degree that he really didn't
15 focus on early in life. And so we moved to the
16 Dallas area, which was actually where I grew up and
17 where we both went to college, although not at the
18 same time. And we ended up having to care for my
19 dad, and then his dad got bad off, so we had to move
20 to Carlsbad and move into his home with my dad and
21 take care of both our dads until they passed. So
22 that's how we ended up in New Mexico.

23 And then when that was all behind us -- and
24 Chester is now an ordained Assemblies of God
25 minister, so he worked at Carlsbad First Assembly as

1 a minister for hospitality, you know, and I had a job
2 there in town as well. And when all that came to an
3 end for various reasons, we had always wanted to move
4 to the mountains, and so we picked Cloudcroft.

5 THE COURT: So Carlos was your husband?

6 MS. HOURNBUCKLE: Chester is my husband.
7 Yes. He goes in Carlsbad.

8 THE COURT: All right. So he was a
9 minister before he retired?

10 MS. HOURNBUCKLE: Yes, and he still is.
11 He's just not a paid minister.

12 THE COURT: Healthwise, okay to serve the
13 next six to eight weeks?

14 MS. HOURNBUCKLE: Yes, sir, with the
15 breaks, that will work good.

16 THE COURT: Thank you, Ms. Hournbuckle.

17 MS. HOURNBUCKLE: You're welcome.

18 THE COURT: My father was -- I think they
19 now call them a bi-vocational preacher. He'd preach
20 on Sundays and Wednesdays, but he'd work for an oil
21 company during the week. So I understand how that --
22 a little town, Monument. You probably know where
23 Monument is, don't you? Out there southeast of
24 Hobbs? A little town -- maybe not. It's a small
25 town.

1 Ms. Whitehead, you're down from T or C, as
2 well. Thank you. What did you do in municipal
3 politics before retiring?

4 MS. WHITEHEAD: Well, I was an elected
5 official for 33 years. I served as a county clerk, a
6 county assessor, county treasurer. I currently serve
7 as mayor pro tem for the City of Truth or
8 Consequences.

9 THE COURT: Is that what you do now full
10 time?

11 MS. WHITEHEAD: I don't do anything full
12 time. I work part-time here and there, and also am a
13 bookkeeper for a church, our local church, on a
14 part-time basis.

15 THE COURT: And you didn't answer the
16 question of ever being represented by an attorney.
17 Have you been represented by an attorney in the past?

18 MS. WHITEHEAD: Not that I remember, no,
19 sir.

20 THE COURT: All right. You said you watch
21 Channel 7. I come down here to Las Cruces, I can't
22 get Channel 7. Does it stop in T or C?

23 MS. WHITEHEAD: I think it comes probably
24 to Hatch.

25 THE COURT: To Hatch. Okay.

1 MS. WHITEHEAD: If that far. And then it
2 starts --

3 THE COURT: So I come down here and I start
4 watching El Paso stations.

5 MS. WHITEHEAD: Yeah. No, I love
6 Albuquerque's channels.

7 THE COURT: My folks get Albuquerque in
8 Hobbs, but I'm always interested that Las Cruces
9 doesn't. Thank you, Ms. Whitehead.

10 MS. WHITEHEAD: You're welcome.

11 THE COURT: Let's go to Mr. Hassell over
12 here. And you indicated up here that you farm
13 pecans. What did you do before retiring and doing
14 pecan farming and those things, Mr. Hassell?

15 MR. HASSELL: I worked for the City of Las
16 Cruces as the director of the City Housing Authority.

17 THE COURT: Okay. And your spouse -- does
18 she help you -- I think you said maybe she was a
19 seamstress.

20 MR. HASSELL: Not a farmer.

21 THE COURT: Not a farmer. So what is her
22 business?

23 MR. HASSELL: She sells custom clothes.

24 THE COURT: All right. And she makes them
25 herself?

1 MR. HASSELL: Right.

2 THE COURT: You had written down that your
3 wife was a legal secretary for a while; is that
4 correct?

5 MR. HASSELL: That's correct.

6 THE COURT: What firm did she work with?

7 MR. HASSELL: I don't know the name of the
8 firm in Albuquerque, and it's been 20, 25 years ago.

9 THE COURT: Okay.

10 MR. HASSELL: And she worked for a number
11 of firms here in Las Cruces.

12 THE COURT: Do you know, did she gravitate
13 toward civil work, criminal work? Do you remember
14 anything about it?

15 MR. HASSELL: I think she did a little bit
16 of both.

17 THE COURT: What was your major field of
18 study in college?

19 MR. HASSELL: She didn't get a degree, but
20 I think she was studying business administration.

21 THE COURT: You didn't check on whether you
22 have a hearing impairment. Do you have any hearing
23 impairment?

24 MR. HASSELL: Not -- I have trouble hearing
25 in certain instances, but I haven't had any trouble

1 here.

2 THE COURT: You talked about your pecan
3 harvest. From when to when does it run?

4 MR. HASSELL: Well, I'm still working on
5 it. I started, oh, just before I got your summons,
6 and I'll probably finish with it within the next
7 three or four weeks. I'm more concerned about
8 getting my crops in the ground, and I'm concerned
9 about my livestock and my animals.

10 THE COURT: Okay. And I'll just ask the
11 question, if we get out of here at 5:30 every day,
12 would that be enough time?

13 MR. HASSELL: Well, I'd be doing all my
14 chores in the dark in the morning and in the dark in
15 the evening. I have to milk my cows and feed
16 everything.

17 THE COURT: On the weekends, would that be
18 enough to get you through?

19 MR. HASSELL: That would be pretty tough,
20 especially when it comes to planting my crops. If I
21 don't get them in the ground, I can't harvest them.
22 That's pretty much an all-day event.

23 THE COURT: As a boy, I used to help my
24 grandfather cotton farm near Lubbock, so I know a
25 little bit about planting.

1 On this one question about the burden of
2 persuasion and the burden of proof in this case,
3 again it's this question: "If, after hearing the
4 evidence, you thought the defendant could be guilty
5 but you were not convinced beyond a reasonable doubt,
6 would you be able to return a verdict of not guilty?"

7 And you put, "No."

8 MR. HASSELL: Yeah, I would be able to.

9 THE COURT: You would be able to return a
10 verdict of not guilty?

11 MR. HASSELL: Yes, sir.

12 THE COURT: All right. Thank you,
13 Mr. Hassell.

14 Mr. Dixon, you're down from Albuquerque, as
15 well. What kind of engineer are you?

16 MR. DIXON: I'm a design and applications
17 engineer.

18 THE COURT: What is Clariant?

19 MR. DIXON: We make desiccants for
20 pharmaceutical companies.

21 THE COURT: What does your spouse do?

22 MR. DIXON: She's in HR admin, recruiting.

23 THE COURT: And what is her employer?

24 MR. DIXON: An engineering firm. I'm not
25 sure what the name of it is.

1 THE COURT: All right. Thank you, Mr.
2 Dixon.

3 Ms. Wojcik, down from Albuquerque. Thank
4 you. What brought from you Georgia to New Mexico?

5 MS. WOJCIK: My husband's job.

6 THE COURT: Okay. And let's start with
7 you. What do you do?

8 MS. WOJCIK: I work for the New Mexican
9 Cancer Care Alliance. We're a nonprofit organization
10 that works to open clinical trials for cancer
11 throughout the state.

12 THE COURT: And what does your spouse do?

13 MS. WOJCIK: He's a mathematician.

14 THE COURT: And what does Applied
15 Technology Associates do?

16 MS. WOJCIK: I'm not allowed to know. I
17 don't know. He's got top-secret clearance. He'd
18 have to kill me if he told me.

19 THE COURT: Now, you talked about your boss
20 is a close friend with one of the defense attorneys.
21 Which one is it?

22 MS. WOJCIK: Scott Davidson.

23 THE COURT: Okay. All right. So
24 Mr. Davidson is not involved in this trial. You've
25 been introduced to the attorneys here. Do you think

1 you could put whatever your boss' relationship is
2 with Mr. Davidson aside and be fair and impartial to
3 the parties here?

4 MS. WOJCIK: Sure. He just saw the letter
5 and said, "My friend is on that." So I took his word
6 for it.

7 THE COURT: One other question. Well, you
8 put that -- have you ever met Mr. Davidson?

9 MS. WOJCIK: No.

10 THE COURT: So you don't think that would
11 be a --

12 MS. WOJCIK: He wanted me to put that on
13 there.

14 THE COURT: But you don't think that will
15 be a problem for you?

16 MS. WOJCIK: Not that she knows him, no.
17 It's not a problem.

18 THE COURT: Thank you, Ms. Wojcik.

19 Mr. Schoonover, I'm from Hobbs. My parents
20 live over in Hobbs. Do you know my parents? I've
21 heard them mention Schoonovers my entire life. Have
22 you ever met my parents or anything? You were about
23 a grade ahead of me in Hobbs, weren't you? Didn't
24 you graduate in '73?

25 MR. SCHOONOVER: '73, yes.

1 THE COURT: But I don't think we knew each
2 other in high school. Do you?

3 MR. SCHOONOVER: I don't think so. I was
4 actually from Monument.

5 THE COURT: Were you? Maybe that's where I
6 heard it. My dad preached at the Church of Christ
7 over there -- you know, two churches: A Baptist
8 church, Church of Christ right across the street.

9 MR. SCHOONOVER: Baptist side.

10 THE COURT: We probably knew a lot of folks
11 over there, the same people.

12 You work for HollyFrontier. Is that that
13 gas plant on the Lovington Highway?

14 MR. SCHOONOVER: Yes.

15 THE COURT: I've always thought that was
16 airplane fuel. Is that what that is?

17 MR. SCHOONOVER: Used to be. Now it is a
18 stripper plant, and all of the products go to Artesia
19 to be refined.

20 THE COURT: To the Navajo refinery?

21 MR. SCHOONOVER: Yes.

22 THE COURT: I used to work at the oil
23 field, but I did most of my work out at Maljamar. I
24 did work out at the gas plant out at Monument. I
25 can't remember the name of it. Warren. I used to

1 work at the Warren -- well, I did some different
2 things in the oil field. But I worked for Texaco
3 most summers.

4 What did your spouse do before retiring?

5 MR. SCHOONOVER: She worked for retail.

6 THE COURT: One of the shops in Hobbs?
7 What's the name of it?

8 MR. SCHOONOVER: Kountry Korral.

9 THE COURT: Oh, yeah. I've been in Kountry
10 Korral. I bought a painting for my mom in there one
11 time. My mom owned -- I'll think of it in a minute.
12 She's retired. The Hodgepodge and Art. Do you
13 remember Hodgepodge and Art?

14 MR. SCHOONOVER: I remember the name.

15 THE COURT: It was right next to that Brown
16 Jewelry right on the side there.

17 MR. SCHOONOVER: Yeah.

18 THE COURT: I know it's a long trip and
19 you're going to miss work, but if you are asked to
20 serve, would you be able to serve, Mr. Schoonover?

21 MR. SCHOONOVER: I'm a busy guy, but I
22 won't make any excuses.

23 THE COURT: Thank you, Mr. Schoonover.

24 Mr. Becerra, you're from Carlsbad. Thank
25 you. Do you work exactly for WIPP, or do you work

1 for a contractor that works for WIPP?

2 MR. BECERRA: For NWP, the contractor.

3 THE COURT: And what does your spouse do?

4 MR. BECERRA: She's a computer technician
5 for the Loving Municipal Schools.

6 THE COURT: All right. For the Carlsbad
7 Public Schools?

8 MR. BECERRA: Loving Municipal Schools.

9 THE COURT: Oh, okay. Loving. Thank you,
10 Mr. Becerra.

11 Let's go over to Mr. Rodriguez over here,
12 also down from Albuquerque. How long have you
13 resided at your current address, Mr. Rodriguez?

14 MR. RODRIGUEZ: The majority of my life,
15 Your Honor.

16 THE COURT: And what does the Institute for
17 Geospatial and Population Studies do?

18 MR. RODRIGUEZ: We do data analysis for
19 traffic here in New Mexico. We have contracts with
20 the Department of Transportation. We also are the
21 official 2020 census partner with the U.S. Census.

22 THE COURT: All right. And I teach over at
23 the law school on an adjunct basis. Is yours a
24 full-time employment with the Institute?

25 MR. RODRIGUEZ: It is, Your Honor, yeah.

1 THE COURT: You said you were a Kiwanis
2 Club of Santa Fe --

3 MR. RODRIGUEZ: Right.

4 THE COURT: What got you as part of Santa
5 Fe, rather than the Albuquerque one?

6 MR. RODRIGUEZ: My grandmother-in-law who
7 passed away.

8 THE COURT: And you were a paralegal before
9 you went into this work at the Institute?

10 MR. RODRIGUEZ: Correct, Your Honor.

11 THE COURT: Thank you, Mr. Rodriguez.

12 Ms. Gothard, you're over from Hope. Thank
13 you. I love going through that little town when I go
14 over from here to Hobbs for my father's birthday.

15 What brought you from Wyoming to New
16 Mexico?

17 MS. GOTHARD: Actually family. My parents
18 were full-time RV'ing and my mom got really sick and
19 had to start calling a place a home, and we were
20 trying to find a place that was warm. So it was
21 either going to be Arizona or New Mexico, and we
22 decided to get a place together, and my husband and I
23 took care of them. And my mom passed away about a
24 year after we moved there, and we're still taking
25 care of my dad.

1 THE COURT: Okay. You're a homemaker now,
2 but you're also working for Yates Petroleum; right?

3 MS. GOTHARD: No, I am working -- I'm not
4 working at all anymore for Yates Corporation. I stay
5 home and I take care of -- my husband is
6 self-employed, and so I help with the books with our
7 business.

8 THE COURT: But you worked for Yates for a
9 while?

10 MS. GOTHARD: Yes, for about two years.

11 THE COURT: And you drove over to Artesia
12 to do that?

13 MS. GOTHARD: Yes.

14 THE COURT: And do you know Harvey Yates?

15 MS. GOTHARD: Harvey Yates? I know the
16 name.

17 THE COURT: I know him, and I know his
18 daughter-in-law, but I don't know probably the
19 Artesia Yates.

20 What did you say your spouse did?

21 MS. GOTHARD: He's a self-employed
22 contractor.

23 THE COURT: What's the name of his company?

24 MS. GOTHARD: J.R. Construction.

25 THE COURT: What kind of construction does

1 J.R. do?

2 MS. GOTHARD: Lots of remodeling and
3 building houses. I don't know. Mostly remodeling.

4 THE COURT: Let me see if I can coordinate
5 my questions here with numbers. There were a few
6 numbers I wanted to ask you about.

7 You had mentioned -- this was the question
8 about: Is there any religious views or philosophical
9 beliefs that might affect your service, and you said
10 you were unsure how your Christian beliefs might
11 affect your service as a juror. Can you think of
12 anything that might impact -- we talked a little bit
13 about what your role would be and what this case is
14 about. Can you anticipate anything about your
15 Christian beliefs that might impact upon service?

16 MS. GOTHARD: No, sir.

17 THE COURT: Okay. Question 43-A. The
18 question is: Do you think it should be easier for
19 the Government to convict a prison inmate of a crime
20 than a person who is not in prison? You said yes.

21 After thinking about it a little bit, is
22 that still your answer? And why is that your answer?

23 MS. GOTHARD: I guess maybe I didn't
24 understand the question. Can you repeat that?

25 THE COURT: Okay. Well, I wondered if --

1 the question might have been a little confusing,
2 because it asks, should it be easier for the
3 Government to convict a prison inmate of a crime than
4 a person who is not in prison.

5 MS. GOTHARD: I mean, maybe -- I guess in
6 my head I was probably thinking maybe they'd have a
7 little more clout. But I do believe that innocent
8 until proven guilty.

9 THE COURT: That was what I was getting at.
10 You can presume these men innocent?

11 MS. GOTHARD: Yes, sir.

12 THE COURT: And force the Government to
13 prove them guilty beyond a reasonable doubt, if they
14 can?

15 MS. GOTHARD: Yes, sir.

16 THE COURT: And you're not going to worry
17 about how they got here or anything?

18 MS. GOTHARD: No, sir.

19 THE COURT: And just because somebody is in
20 prison doesn't mean they're not entitled to a
21 presumption of innocence?

22 MS. GOTHARD: Exactly.

23 THE COURT: Let me ask you on another
24 answer that you gave. The question was; do you think
25 your feelings involving people who sell or use drugs

1 or your personal experiences involving drugs might
2 influence you in a case where there are allegations
3 of distribution of drugs? And you put yes. You said
4 you don't support anyone selling drugs because it
5 ruins lives. And that's certainly understandable,
6 that selling illegal drugs -- I can understand and I
7 think everyone can understand not supporting that.
8 But let's talk about the impact on this case. Do you
9 think you could put those beliefs aside and just
10 listen to my instructions and the evidence in this
11 courtroom and render a verdict based solely on that?

12 MS. GOTHARD: Yes, sir.

13 THE COURT: All right. And the same about
14 the police officers and them being a witness. Well,
15 before I get there, do you think if a person is
16 brought to trial, there must be some truth to the
17 charges and it's likely that person is guilty? And
18 you said, "Yes, there must be some supporting
19 evidence."

20 And the next question: There must be some
21 truth to the charges and it's likely that person is
22 guilty? And you said, "There was a reason or
23 evidence they were convicted to begin with."

24 Again, do you think you could put all that
25 aside and not worry about how they got here?

1 MS. GOTHARD: Yes, sir.

2 THE COURT: Presume them to be innocent and
3 make the Government prove their charges beyond a
4 reasonable doubt?

5 MS. GOTHARD: Yes, sir.

6 THE COURT: All right. And I know you live
7 some distance from Las Cruces. You put four hours.
8 Is it four hours from here to Hope? Because I was
9 hoping to get from here to Hobbs in four and a half
10 hours, four forty-five.

11 MS. GOTHARD: It's about 175 miles one way.

12 THE COURT: All right. I know it's a
13 distance. Okay to serve if you are selected? Be
14 able to do it?

15 MS. GOTHARD: Sure.

16 THE COURT: All right. Thank you, Ms.
17 Gothard.

18 Mr. Brimmer, you're down from Albuquerque,
19 as well. Thank you.

20 What brought you from Kansas to New Mexico?

21 MR. BRIMMER: The military.

22 THE COURT: All right. What do you do now?

23 MR. BRIMMER: I'm currently unemployed.

24 THE COURT: Okay. Has your only employer
25 been the military?

1 MR. BRIMMER: I had a small job for, like,
2 a month right after getting out.

3 THE COURT: All right. And how long have
4 you been out now?

5 MR. BRIMMER: A little over a year.

6 THE COURT: And what does your spouse do?

7 MR. BRIMMER: She's a social worker.

8 THE COURT: All right. And who is her
9 employer?

10 MR. BRIMMER: I can't remember the name of
11 the company. It's a private group from Waco.

12 THE COURT: For dates of unavailability,
13 you put "N/A." As far as dates are concerned, you're
14 okay to serve the next six to eight weeks?

15 MR. BRIMMER: Yeah, barring any
16 emergencies.

17 THE COURT: Okay. Thank you, Mr. Brimmer.

18 Ms. Yatsattie, you're down from
19 Albuquerque, as well. Let me pull up your special
20 questionnaire. There was a question I wanted to ask
21 you related to one of your answers. It says again,
22 "In what ways might your religious or philosophical
23 beliefs affect your answer as a juror?"

24 You said you're not sure at this time.
25 You've been sitting here today and listening to the

1 case. Is there anything about your religious views
2 or philosophical views that you can think of that
3 might impact on how you would perform as a juror in
4 this case?

5 MS. YATSATTIE: No, I can't.

6 THE COURT: There was one other question I
7 wanted to ask related to -- it says, "Do you believe
8 that a prison inmate is entitled to be presumed
9 innocent until proven guilty if he is being
10 prosecuted for committing a crime while in prison?"

11 And you said yes, and you'd be able to just
12 put aside any -- how anybody was in prison or
13 anything, be able to put that aside and assume that
14 those people in prison -- they're entitled to a
15 presumption of innocence, just like anybody else?

16 MS. YATSATTIE: I would try.

17 THE COURT: I want to talk to you about
18 looking at these graphics and things. You just --
19 you didn't say you couldn't look at them. You didn't
20 say you could look at them. The question was: Do
21 you feel it's possible you would not be able to look
22 at them? I need a commitment from you that if you're
23 selected on the jury, you'll do the job and look at
24 the evidence, because you've got to consider the
25 evidence. Could you do that?

1 MS. YATSATTIE: Yes.

2 THE COURT: All right. Thank you, Ms.
3 Yatsattie. I know that you help with the care of
4 some folks. On that score, would you be able -- okay
5 to serve six to eight months (sic)? I know that you
6 take care of some folks in your life.

7 MS. YATSATTIE: It would be a financial
8 hardship on my cousin who I live with, because then
9 she would have to pay for child care out-of-pocket.

10 THE COURT: Okay. But if you had to do it,
11 you'd be able to do it?

12 MS. YATSATTIE: I guess, yes.

13 THE COURT: Thank you, Ms. Yatsattie.

14 Ms. Huerta, there's a few questions -- I
15 didn't get one of the questionnaires that everybody
16 else got back for you, so you're going to have to
17 bear with me a little bit as to some of the answers I
18 don't have from other people. But let me just ask
19 you, workwise, would you be able to serve six to
20 eight weeks if you were selected to serve?

21 MS. HUERTA: It would be kind of difficult
22 because I'm the only person in the office that does
23 my job in the whole southeastern part of New Mexico.

24 THE COURT: All right. Let me ask these
25 questions of you that I didn't get before, so we just

1 have kind of an even record here. How long have you
2 resided at your current address?

3 MS. HUERTA: About 12 years.

4 THE COURT: And regarding your residence,
5 do you own it or rent it?

6 MS. HUERTA: Own.

7 THE COURT: And how long have you resided
8 in New Mexico?

9 MS. HUERTA: Since '95.

10 THE COURT: And what was your place of
11 birth?

12 MS. HUERTA: Boise, Idaho.

13 THE COURT: All right. And your marital
14 status?

15 MS. HUERTA: I'm separated.

16 THE COURT: And what is your occupation or
17 business?

18 MS. HUERTA: Trust. I work in the trust
19 department.

20 THE COURT: Okay. And who is your
21 employer?

22 MS. HUERTA: Wells Fargo.

23 THE COURT: All right. And your spouse.
24 What -- before the separation, what did your spouse
25 do?

1 MS. HUERTA: He's a retired teacher and
2 administrator.

3 THE COURT: Okay. And what was his
4 employer?

5 MS. HUERTA: He worked for Poudre in
6 Colorado, but he works for the Roswell School
7 District.

8 THE COURT: And have you ever been
9 represented by an attorney before?

10 MS. HUERTA: No, not other than a divorce.

11 THE COURT: Have you ever been a party to a
12 lawsuit other than the divorce?

13 MS. HUERTA: No.

14 THE COURT: And are you a member of any
15 fraternal, civic, labor or organization?

16 MS. HUERTA: No.

17 THE COURT: And do you have any hearing
18 impairment?

19 MS. HUERTA: No.

20 THE COURT: Are there any additional
21 matters touching upon your ability to serve as a
22 juror that should be brought to the attention of the
23 Court?

24 MS. HUERTA: No.

25 THE COURT: Do you have any dates of

1 unavailability, or is it just a general hardship?

2 MS. HUERTA: Right.

3 THE COURT: All right. Thank you, Ms.

4 Huerta.

5 Let's see. Ms. May, you're down from Santa
6 Fe. Thank you.

7 Before the divorce, what did your spouse
8 do?

9 MS. MAY: He worked for the College of
10 Santa Fe.

11 THE COURT: And you're retired. What did
12 you do before retirement?

13 MS. MAY: I owned vacation rentals in
14 downtown Santa Fe.

15 THE COURT: Did you own them, or just
16 manage them for somebody else?

17 MS. MAY: I did both.

18 THE COURT: And dates unavailable, you
19 said, "I am available." So are you okay to serve the
20 next six to eight weeks?

21 MS. MAY: Yes, sir.

22 THE COURT: Thank you, Ms. May.

23 Ms. Taylor, you're over at Sandia Park.
24 That's on the other side of the Sandia Mountains;
25 right? In Albuquerque?

1 MS. TAYLOR: Right.

2 THE COURT: What brought you from Kansas to
3 New Mexico?

4 MS. TAYLOR: I came with my husband for a
5 job.

6 THE COURT: What do you do for APS?

7 MS. TAYLOR: I'm a retired elementary
8 school principal.

9 THE COURT: Did you have a particular
10 school?

11 MS. TAYLOR: The last school was Corrales
12 Charter.

13 THE COURT: What did your spouse do when
14 the divorce occurred?

15 MS. TAYLOR: Aerospace engineer for
16 Goodrich Aerospace.

17 THE COURT: I'm going to ask these
18 questions again about the presumption of innocence.
19 Again, would you be able to just put aside anything
20 about why these men are in the courtroom right now
21 and presume them innocent and make the Government
22 prove any charges beyond a reasonable doubt if they
23 can?

24 MS. TAYLOR: Yes, I can do that.

25 THE COURT: All right. And you're not

1 going to worry about what evidence or anything got
2 them here; you're just going to focus on what's going
3 to be said here in the courtroom?

4 MS. TAYLOR: Yes.

5 THE COURT: All right. And one question on
6 these exhibits and the material that you may have to
7 look at. You said, "I can't really look at that kind
8 of thing on TV," and I understand that. You don't
9 have to watch it on TV. But if you're a juror,
10 you've got to look at the pictures and stuff. Give
11 me your commitment you'll look at them?

12 MS. TAYLOR: Yes, I'll make a commitment to
13 do that.

14 THE COURT: All right. Thank you, Ms.
15 Taylor.

16 Let's go over to Mr. Johnston here. I'm
17 going to keep my list here, so we'll do Mr. Johnston
18 first, and then we'll come back here.

19 You're over from Carlsbad. Thank you very
20 much. What brought you from Carlsbad to New Mexico?

21 MR. JOHNSTON: Work.

22 THE COURT: And what kind of engineer are
23 you?

24 MR. JOHNSTON: I'm actually an electrician,
25 underground mining electrician.

1 THE COURT: Okay. My brother-in-law, who
2 lives in Placitas, is a hard rock mining engineer.
3 He went to New Mexico Tech. And he worked at the
4 potash mines, but I don't know if it was Intrepid or
5 not. Was Intrepid there back -- he's about to turn
6 60. Was it there back when he would have been about
7 20?

8 MR. JOHNSTON: It might have been
9 Mississippi.

10 THE COURT: Mississippi. Maybe it was.
11 What does your spouse do?

12 MR. JOHNSTON: She is a personal care
13 consultant for Miracle Ear.

14 THE COURT: All right. And what was your
15 major field of study in vocational school?

16 MR. JOHNSTON: Mine? I'm sorry, mine or
17 hers?

18 THE COURT: Well, you had that you checked
19 vocational schools. Did you go to college to become
20 an engineer?

21 MR. JOHNSTON: No, I actually went to
22 HVACR.

23 THE COURT: Thank you, Mr. Johnston.

24 Mr. Sanchez. I'm going to skip over to Mr.
25 Sanchez before I come back to Ms. Tighe.

1 What was your major field of study in
2 college?

3 MR. SANCHEZ: Electronics technology.

4 THE COURT: And I know that jury duty can
5 impose a financial burden. Do you think you'd be
6 able to do it for the next six to eight weeks?

7 MR. SANCHEZ: Probably not.

8 THE COURT: Okay.

9 MR. SANCHEZ: Because I have employees, and
10 I would have to shut down for the whole time. They
11 would have no work either.

12 THE COURT: Does your significant other
13 also work at The Corner Store? Is that the business
14 y'all have?

15 MR. SANCHEZ: No, that's -- she works
16 there. It's a major company.

17 THE COURT: That's a major company? Okay.
18 All right. Thank you, Mr. Sanchez.

19 Ms. Tighe, I'll come back to you. Again,
20 I've indicated several times, this is not a death
21 penalty case. So you're okay to serve on it?

22 MS. TIGHE: Yes, sir.

23 THE COURT: And again, as far as this
24 presumption of innocence, you're not going to worry
25 about how these men got here; you're going to presume

1 them innocent, not worry about any evidence or
2 anything that got them here, and you're going to make
3 the Government show you the evidence?

4 MS. TIGHE: Yes, sir.

5 THE COURT: And prove beyond a reasonable
6 doubt, if they can?

7 MS. TIGHE: Yes, sir.

8 THE COURT: All right. So you believe in
9 and respect the presumption of innocence?

10 MS. TIGHE: Yes, sir, I do.

11 THE COURT: Thank you, Ms. Tighe.

12 All right, Mr. Billings, over from
13 Alamogordo. Thank you. What brought you from Ohio
14 to New Mexico?

15 MR. BILLINGS: The Air Force.

16 THE COURT: What is a C inspector?

17 MR. BILLINGS: It's a QC inspector, quality
18 control inspector.

19 THE COURT: What is AECOM-URS? What is
20 that?

21 MR. BILLINGS: AECOM is a large contracting
22 business. They do all different types of industry:
23 FBI, CIA, DEA, NASA, part of the World Trade Center,
24 the space port out here, and they work with the
25 drones and F16 contracts they pick up all across the

1 United States.

2 THE COURT: And what did you do in the Air
3 Force?

4 MR. BILLINGS: I was quality control in
5 aircraft structures.

6 THE COURT: And what does your spouse do?

7 MR. BILLINGS: She works at the CDC.

8 THE COURT: Okay. Let me see. There was
9 one answer on your questionnaire. Again, it's about
10 the police officers. You had indicated that you
11 would be more likely to believe them, but I think
12 we've talked a little bit about this afternoon --
13 would you be able to not decide the credibility of
14 the witness, police officer, until they got on the
15 stand and listened to the direct examination, the
16 cross-examination?

17 MR. BILLINGS: I still stand where I firmly
18 stood before.

19 THE COURT: And does that mean that you
20 would believe them before they even got on the stand?

21 MR. BILLINGS: Yes, sir.

22 THE COURT: Okay. So you would believe
23 police officers or law enforcement more than other
24 witnesses in the courtroom?

25 MR. BILLINGS: Yes.

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1 THE COURT: All right. Let me see. On
2 56-A, this is the presumption of innocence. Do you
3 think you would be able to presume these men that are
4 in the courtroom as defendants -- can you presume
5 them to be innocent?

6 MR. BILLINGS: No.

7 THE COURT: You think that because they're
8 already here, there must be some evidence of them
9 being guilty?

10 MR. BILLINGS: Yes.

11 THE COURT: All right. I know that serving
12 as a juror can be -- you can lose some proficiency at
13 work, being gone for a long time. But would you
14 still be able to serve six to eight weeks if you were
15 selected to serve?

16 MR. BILLINGS: As far as proficiency, at
17 this time we're building up, so it would cause a
18 hardship at work, and it would also cause a huge
19 financial hardship for my family.

20 THE COURT: All right. Thank you,
21 Mr. Billings.

22 All right. I'm going to come back to you,
23 Mr. Phillips, tomorrow. I didn't have a chance.
24 They got this in, so I may come back to you.

25 I'm going to go to Mr. Youngblood, also

1 from Hobbs. Thank you. You don't know my parents,
2 do you?

3 MR. YOUNGBLOOD: What's the last name?

4 THE COURT: Browning. J.W. and Shirley
5 Browning. Do you know either of them?

6 MR. YOUNGBLOOD: I believe I know the name,
7 but I don't know them personally.

8 THE COURT: Is your Oil Quik Change -- is
9 that one on Bender as you get to where it used to be
10 old Gibson's parking lot?

11 MR. YOUNGBLOOD: Yes, sir.

12 THE COURT: I've been to your store.
13 You've taken care of my car. I got 488,000 miles on
14 it before it died south of Clines Corners. So I'm
15 driving a younger car. It's only got 150,000 miles
16 on it.

17 What was your major field of study in
18 college?

19 MR. YOUNGBLOOD: Automotive.

20 THE COURT: And you were represented by an
21 attorney. What -- was that the suit with the
22 customer that you mentioned in your --

23 MR. YOUNGBLOOD: Yes, sir. He was from
24 Roswell. The attorney was from Roswell. I don't
25 remember his name.

1 THE COURT: Your dates of unavailability,
2 you put 16th of February and March 23 through April
3 1st. What are those in connection with?

4 MR. YOUNGBLOOD: The last one is spring
5 break. My wife is a mathematics professor at the
6 junior college and that is her spring break and we
7 have a cruise already planned and paid for.

8 THE COURT: Okay. On your question about
9 do you feel it's possible that you would not be able
10 to look at photographs and video recordings, again,
11 I've got to pin you down on that. If you were
12 selected, would you give me a commitment you'll look
13 at the evidence?

14 MR. YOUNGBLOOD: Oh, yeah.

15 THE COURT: Okay. All right. And we will
16 take lunch breaks, and we'll try to do it more
17 periodic than we were able to do it this morning when
18 we got started a little late. With that, healthwise,
19 you'd be able to serve?

20 MR. YOUNGBLOOD: Yes, sir, I believe so.

21 THE COURT: Thank you, Mr. Youngblood.

22 Let's see if I can squeeze in one more.

23 Ms. Ortiz, you're down from Las Vegas.

24 Thank you. I want to talk to you a little bit about
25 the right to silence that you put in your answer, you

1 put into the questionnaire. You asked, "Why would
2 someone not want to testify in their defense? I
3 would question it."

4 I'm going to instruct you you can't
5 question it. I'm going to tell you that it's
6 cherished in our country that people don't have to
7 testify, put on any witnesses and evidence. You can
8 have your view of whether it's a good idea or a bad
9 idea, but when you get into this courtroom, I don't
10 know what these men are going to do, but if they
11 don't testify, you can't use it or infer anything
12 from it. Would you be able to follow my instruction?

13 MS. ORTIZ: Yes, sir.

14 THE COURT: All right. Thank you,
15 Ms. Ortiz.

16 Let's see if I can squeeze in Ms. Becker
17 before we go.

18 Ms. Becker, you're over from Alamogordo.
19 Thank you very much. What does a manager do at the
20 Alamogordo Public Schools?

21 MS. BECKER: I manage all of the technology
22 and the technology department for the entire school
23 district.

24 THE COURT: Okay. And what did your spouse
25 do before retirement?

1 MS. BECKER: He spent 35 years in the
2 German Air Force.

3 THE COURT: I know that the German Air
4 Force trained in Alamogordo for many years. Was he
5 over here training?

6 MS. BECKER: He was. We met on Match.com.

7 THE COURT: Is he already back in Germany?

8 MS. BECKER: No, he had to spend a year,
9 but he's been retired for almost seven years now.

10 THE COURT: Again, I'm going to talk to you
11 about the right to silence, because you answered the
12 way you did on your questionnaire. After sitting
13 here and listening to what I've said about the right
14 of silence and I'm going to talk about how it's
15 cherished in this country, could you follow my
16 instruction and put your views aside, and if these
17 men decide not to testify, not use it against them or
18 infer anything against them?

19 MS. BECKER: Yes, sir.

20 THE COURT: All right. And again, on these
21 photographs and things that are going to be placed
22 into evidence, most likely, you indicated some --
23 that it might be hard for you to say that they
24 wouldn't impact you, that you might not be able to
25 look at them, and it might keep you from being fair

1 and impartial. After sitting here and listening to
2 what I'm going to be telling you as far as
3 instructions and things, can you give me a commitment
4 that if you were selected as a juror, you'd look at
5 the evidence?

6 MS. BECKER: Yes. The graphic pictures
7 cause me a little bit of anxiety, just because it
8 burns a memory, you know, that I can't hardly get rid
9 of. But yes, I would certainly look at it if I was
10 chosen.

11 THE COURT: And could I get a commitment
12 from you that if you look at these pictures, you'll
13 remain fair and impartial to all the parties in the
14 case?

15 MS. BECKER: Yes, sir.

16 THE COURT: All right. Thank you,
17 Ms. Becker.

18 All right. We better slow down and stop
19 there. Ms. Wild has given me a few instructions to
20 give you before we depart tonight. Let me tell you
21 that I'm going to excuse you for the day. And
22 because we're going to start with you right at the
23 very beginning, I'd ask you to be back standing out
24 in front of the courtroom at 8:30. So try to be here
25 in time to get through security so that we can start.

1 I've got a few more questions, then I'm
2 going to turn it over to the counsel, I hope, pretty
3 quickly in the morning. The clerk's office staff
4 will be here after the recess today if you, as
5 jurors, need assistance with hotel rooms. So you
6 should go to the jury assembly room on the second
7 floor at the check-in computer and they'll help you
8 with hotel rooms. Take all your personal belongings.
9 Courthouses are pretty safe, but still, it's a good
10 idea to take them with you. And then return to the
11 courtroom and wait outside and ready to go at 8:30
12 a.m., if you possibly can, because we'd like to get
13 started.

14 I'm going to shut up pretty quickly in the
15 morning and turn it over to the attorneys, and see if
16 we can move things along for you.

17 Because we are taking our first overnight
18 break in the proceedings, I'm going to remind you of
19 a few things that are especially important. Until
20 the trial is completed, you're not to discuss this
21 case with anyone, whether it's members of your
22 family, people involved in the trial, or anyone else.
23 And that includes your fellow jurors. So if y'all
24 have gotten to be good friends today, don't text each
25 other and talk about this case. Talk about something

1 else. If anyone approaches you and tries to discuss
2 the trial with you, please let me know about it
3 immediately.

4 Also, you must not read or listen to any
5 news reports of the trial. Please don't go home and
6 get on the internet and do any research for purposes
7 of this trial. Sometimes I have let people go the
8 first night and they go home and put on Facebook,
9 "Guess what I'm doing. I'm on jury duty."

10 Don't do that. Don't even do it a little
11 bit. So stay away from social media and talking
12 about this case.

13 And finally remember that you must not talk
14 about anything with any person who is involved in the
15 trial, even if it doesn't have anything to do with
16 the trial. If you need to speak with me, simply give
17 a note to one of the court security officers or the
18 courtroom deputies.

19 I probably will not repeat these things in
20 the morning when we take breaks because we've said
21 them enough today. But if we do take breaks
22 tomorrow, keep them in mind throughout the day
23 tomorrow.

24 Thank you for your hard work. Please come
25 back. We'll see you at 8:30 in the morning.

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1 All rise.

2 (The venire panel left the courtroom.)

3 THE COURT: All right. Does it look like
4 we've got all the jurors out of the room? All right.

5 Is there anything we need to discuss before
6 we take our break? Anything I can do for you this
7 evening, Mr. Beak?

8 MR. BECK: Not from the Government, Your
9 Honor.

10 THE COURT: How about from any of the
11 defendants? Mr. Lowry? Ms. Duncan? Mr. Lowry?

12 MS. DUNCAN: Your Honor, I wanted to raise
13 an issue about discovery.

14 THE COURT: Yes.

15 MS. DUNCAN: So we just got over 1,000
16 pages of discovery delivered to us from Russ Aoki
17 today. I'd ask the Government to start
18 simultaneously delivering to us when they send it to
19 Mr. Aoki. Because what happens, they send it to him
20 on a Friday, and Mr. Aoki doesn't get to it until
21 Monday, and since we're in the middle of trial, we
22 can't afford to have discovery delayed by two days.

23 I know we've discussed this before, and the
24 Government has sent us discrete documents at the same
25 time as they've disclosed them to Mr. Aoki, but what

1 I'd propose to the Government and ask the Court to
2 order is at the same time the documents are being
3 sent to Mr. Aoki, they be sent to me and I can
4 disseminate them to the lawyers who are in trial
5 right now so we can immediately access them and start
6 using them for trial.

7 THE COURT: Can you live with that,
8 Mr. Beck? Just one set. Whatever you send to
9 Mr. Aoki, you'll give one set to Ms. Duncan while
10 we've got the trial going on?

11 MS. ARMIJO: She said she received it;
12 correct?

13 THE COURT: Well, it's a few days old.

14 MS. ARMIJO: No, it was sent to Mr. Aoki
15 last night. It's not two days old. It was sent to
16 Mr. Aoki last night. And the problem is, it's really
17 time-consuming to do it. That's why we picked
18 different articles. If there is something in
19 particular of note, that's why we agreed to go ahead
20 and do it. But the problem was that it's very
21 time-consuming. And it was disclosed last night I
22 think after 6:00.

23 THE COURT: After 6:00. When did you get
24 it, Ms. Duncan?

25 MS. DUNCAN: I understood that on Friday

1 the Government had Eric Duran's medical and
2 psychological records. And we could have been
3 spending the weekend going through those and getting
4 them into the Eric Duran witness notebooks.

5 THE COURT: When did you get those?

6 MS. DUNCAN: They are in this dump that we
7 just got of over a thousand pages.

8 THE COURT: Last night or this morning?

9 MS. DUNCAN: This afternoon while we were
10 selecting the jury.

11 THE COURT: Well, I think we're in trial,
12 I've got to order that what you send to Aoki, you've
13 got to send it to -- you've got to give it to them.
14 If there is something special, we can talk about it.
15 But while we're in trial, let's have somebody make a
16 set and give it to Ms. Duncan.

17 MS. ARMIJO: And Your Honor, actually, we
18 do have one thing. We're requesting the Court's
19 permission to release the grand jury transcripts for
20 Jencks purposes.

21 THE COURT: Okay. Is there an order on my
22 desk?

23 MS. ARMIJO: There is not. But we will get
24 you an order.

25 THE COURT: Just get it to me and run it

1 past defense counsel.

2 MS. ARMIJO: And I just want to put on the
3 record, as to the Eric Duran, we had them, but we
4 didn't get permission to give them away until that
5 afternoon. And then we had to redact, go through all
6 of them; there were hundreds of them to redact. And
7 so I didn't get to officially look over those
8 redactions until over the weekend. So it's not as if
9 we had them Friday and just delayed, Your Honor.

10 THE COURT: Anything else?

11 MR. LOWRY: Yes, Your Honor, a couple of
12 things. One is, I know that on Friday when I argued
13 the motion to strike, you had asked the Government to
14 brief that issue. If we're on a normal briefing
15 schedule, the briefing will be done well after the
16 witness has testified. It just seems to be a bit of
17 a moot point. I don't know what the Court's
18 inclination is with regard to the motion.

19 THE COURT: Well, it was to deny it, but I
20 wanted the Government to put something on the record.
21 But I'll take a look at it before I rule and before
22 the witness takes the stand.

23 MR. LOWRY: Okay.

24 MR. BECK: I think we should have a
25 response tomorrow or the day after filed, so it

1 should be coming.

2 MR. LOWRY: Your Honor, it was my
3 understanding during the James hearing that you had
4 sort of limited the universe of James statements that
5 the Government was going to introduce at trial. But
6 we're getting a daily barrage of new 302s and it
7 seemed to be intimated in the last couple of hearings
8 that that might expand that universe. Did I miss
9 something?

10 THE COURT: Well, you can go back and look
11 at the record and correct me. I said that the
12 universe was closed. But if the Government wanted to
13 attempt to bring anything further in, they were going
14 to have to justify it. In other words, justify when
15 it was coming in late, or why they had not disclosed
16 it earlier. That's my memory. If y'all want to go
17 back and look at the transcript, if I said it was a
18 absolute closed, no more -- but my memory was a
19 little bit softer in the sense that if they wanted to
20 try to get it in, they had to justify why it wasn't
21 released earlier.

22 MR. LOWRY: We'll go back and review the
23 transcripts, Your Honor. Thank you.

24 THE COURT: Anything else?

25 MS. JACKS: Yes. Your Honor it seems to me

1 the Jencks deadline was January 16. It's January 29
2 and the Government is only now getting around to
3 turning over grand jury testimony of witnesses it
4 expects to call. This is ridiculous. What use is a
5 scheduling order and a deadline if the Government can
6 violate it by weeks on end? This is crazy.

7 THE COURT: We need to get the order to me,
8 if it's not there, and it needs to be turned over
9 immediately, not then. Because that was the
10 agreement.

11 MS. ARMIJO: Your Honor, that was an
12 agreement that we agreed to. I believe the Court was
13 not ordering us to. We said we would, and the only
14 reason --

15 THE COURT: No, well, if we agreed, we
16 agreed. I'm going to enforce agreements. So give me
17 the order and turn over the transcripts immediately.

18 MS. JACKS: Can we have an indication of
19 how many pages and how many witnesses?

20 THE COURT: Let me get the order and let
21 them get it turned over, then we'll see how long it's
22 going to take, and you can see what you've got.
23 Anything else?

24 See you at 8:30 in the morning.

25 (The Court stood in recess.)


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2 STATE OF NEW MEXICO

3
4 C-E-R-T-I-F-I-C-A-T-E

5 I, Jennifer Bean, FAPR, RDR, CRR, RMR, CCR,
6 Official Court Reporter for the State of New Mexico,
7 do hereby certify that the foregoing pages constitute
8 a true transcript of proceedings had before the said
9 Court, held in the District of New Mexico, in the
10 matter therein stated.

11 In testimony whereof, I have hereunto set my
12 hand on this 3rd day of February, 2019.

13
14 
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